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REDUCING THE PAPERWORK BURDEN ON THE PUBLIC: ARE AGENCIES DOING ALL THEY CAN?

HEARING

BEFORE THE

SUBCOMMITTEE ON REGULATORY AFFAIRS

OF THE

COMMITTEE ON
GOVERNMENT REFORM

HOUSE OF REPRESENTATIVES

ONE HUNDRED NINTH CONGRESS

FIRST SESSION

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REDUCING THE PAPERWORK BURDEN ON THE PUBLIC: ARE AGENCIES DOING ALL THEY CAN?

TUESDAY, JUNE 14, 2005

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON REGULATORY AFFAIRS,
COMMITTEE ON GOVERNMENT REFORM
Washington, DC.

The subcommittee met, pursuant to notice, at 2:06 p.m., in room 2247, Rayburn House Office Building, Hon. Candice S. Miller (chairwoman of the subcommittee) presiding.

Present: Representatives Miller, Brown-Waite, and Lynch.

Staff present: Rosario Palmieri, deputy staff director; Erik Glavich, professional staff member; Joe Santiago, GAO detailee; Alex Cooper, clerk; Krista Boyd, minority counsel; and Cecelia Morton, minority office manager.

Mrs. MILLER. Good afternoon, I am going to start the hearing. I think our ranking member Mr. Lynch will be here in any moment.

So we will call the Subcommittee of Regulatory Affairs to order. I would certainly like to welcome you all to today's hearing. Of course we are going to be talking about the efforts of Federal agencies to reduce the paperwork burden imposed on the public.

Today's hearing is the second, actually, by this subcommittee regarding this subject. On May 25th we examined efforts with the Internal Revenue Service to reduce the burden on taxpayers, which was a very interesting hearing, I think. The IRS actually accounts, they say, for roughly 80 percent of the paperwork burden, but there are certainly many more agencies that have to force individuals and businesses to take considerable amounts of time filling out forms and complying with governmental regulations.

Excluding the Department of Treasury, the Federal Government imposes nearly 1.6 billion hours of burden on the public, with five agencies imposing more than 100 million hours of burden.

Much of the information collected by Federal agencies is unnecessary, some might say extremely burdensome. And agencies and the Federal Government—we all need to work together to do a better job to ensure that unnecessary functions are not unnecessarily burdensome. In response to increases in government-imposed burden, Congress passed the Paperwork Reduction Act [PRA] in 1980. However, the burden imposed on the public has continued to increase throughout the years.

Congress amended the PRA in 1995, and they established burden reduction goals of 5 to 10 percent for the first 5 years of its enact-

ment. Furthermore, the 1995 PRA set annual paperwork reduction goals that reduced burden thereafter to the, "maximum practicable opportunity."

Despite the intent of Congress, the burden has not decreased, unfortunately. The non-Treasury paperwork burden now exceeds 1996 levels. It is projected to increase even further. Of course, Congress has not been without blame. We all have to take a good look in the mirror sometimes, obviously, because according to the OMB the non-Treasury burden has increased by nearly 85 million hours over just the past 3 years because of required program changes.

In a post-September 11th world, many new regulations of course are necessary to ensure the safety of the Nation. Congress has passed several laws that have obviously increased the burden. However, Federal agencies as a whole have not done, I think, as good a job as they possibly could in reducing burden in areas that are under their discretion. In fact, there are a lot of discretionary agency actions and not statutes passed by Congress that have increased the non-Treasury paperwork burden imposed by the public, some estimate by as much as 51 million hours, as well over the past 3 years.

So we are very pleased today to have the Chief Information Officers of the EPA, of Department of Labor, of the Department of Transportation here with us here.

Together these three agencies alone account for over 557 million hours of burden. We tried to put that into terms of what does it even mean. Difficult to get your mind around those numbers. To put it into perspective, that would mean 279,000 employees would have to spend 40 hours per week for 50 weeks per year just filling out paperwork for these three agencies alone. Obviously this is a task of reducing the burden, a very difficult task. And our witnesses, I am sure, will attest to that.

But we also need to always think of the term "customer service." Customer service cannot be a novel concept for any level of government, Federal, State, local, what have you. We need to think in terms of our customer and who we are servicing and do the very best that we can for them.

The intent of Congress was very clear when it passed in 1995 the PRA. And since burden is imposed by an agency, it is also the agency's responsibilities to work with us to minimize that burden. We will be looking at that today.

We are also pleased to have with us today Linda Koontz of the GAO. Her testimony will provide the subcommittee with insights, very vital insights, I am sure, into efforts by Federal agencies to reduce burden through compliance with the PRA and beyond, in fact, what is actually required by law.

In preparation for this hearing, both Chairman Tom Davis of the Government Reform Committee and I requested the GAO to assess agency compliance with the PRA.

[NOTE.—The GAO report entitled, "Paperwork Reduction Act, New Approach May Be Needed to Reduce Government Burder on Public," may be found in subcommittee files.]

Mrs. MILLER. The GAO has concluded that the governmentwide industry CIOs generally have reviewed information collections and certified that they have met the standards outlined in the PRA.

However, its analysis also showed that CIOs certified collections even though support for those standards was often missing or partial. This is somewhat troubling, because without support from agencies showing the standards are met, or the attempts are being made to meet them, Congress and the public has a hard time being completely confident that the highest degree of attention was focused on minimizing the burden.

So I certainly want to thank each of our witnesses today. We are looking forward to your input.

Obviously, every hour spent by an individual or a business completing paperwork for the Federal Government is an hour that could be spent doing something else, perhaps more productive, and excessive and unnecessary burden imposed on individuals and businesses hurts job creation. It certainly hinders our ability to be competitive in a global marketplace as well.

I think America's businesses should have the absolute confidence that their government is doing all it can to provide economic expansion. And oftentimes, unfortunately, that old saying I am from the government, I am here to help you is a choking grain of truth, I think.

So at this time I would like to recognize the distinguished ranking member of the subcommittee, Congressman Stephen Lynch, for his opening remarks.

[The prepared statement of Hon. Candice S. Miller follows:]

"Reducing the Paperwork Burden on the Public: Are Agencies Doing All They Can?"
Opening Statement of Chairman Candice S. Miller
Subcommittee on Regulatory Affairs
Committee on Government Reform
Tuesday, June 14, 2005, 2:00 p.m.
Room 2247 Rayburn House Office Building

Good afternoon. The Subcommittee on Regulatory Affairs will come to order. I would like to welcome everyone to today's hearing on the efforts of Federal agencies to reduce the paperwork burden imposed on the public.

Today's hearing is the second by this subcommittee regarding the public burden imposed by Federal agencies. On May 25th, we examined efforts within the Internal Revenue Service to reduce the burden on taxpayers. The IRS may account for roughly 80 percent of the paperwork burden, but there are many more agencies that force individuals and businesses to take considerable amounts of time filling out forms and complying with regulations.

Excluding the Department of Treasury, the Federal government imposes nearly 1.6 billion hours of burden on the public—with five agencies imposing more than 100 million hours of burden. Much of the information collected by Federal agencies is unnecessary and extremely burdensome, and agencies need to do a better job ensuring their necessary functions are not unnecessarily burdensome.

In response to increases in government-imposed burden, Congress passed the Paperwork Reduction Act in 1980, known as the PRA. However, the burden imposed on the public has continued to increase throughout the years. Congress amended the PRA in 1995 and established burden reduction goals of 10 or 5 percent for the first five years of its enactment. Furthermore, the 1995 PRA set annual paperwork reduction goals that reduced burden thereafter to the "maximum practicable opportunity."

Despite the intent of Congress, burden has not decreased. The non-Treasury paperwork burden now exceeds 1996 levels and is projected to increase even further. Congress has not been without blame. According to OMB, the non-Treasury burden has increased by nearly 85 million hours over the past three years because of statutorily-required program changes. In a post-9/11 world, many new regulations are necessary to ensure the safety of the nation; and Congress has passed several laws that have increased burden.

However, Federal agencies as a whole have not done an adequate job reducing burden in areas under their discretion. In fact, discretionary agency actions—and not statutes passed by Congress—have increased the non-Treasury paperwork burden imposed on the public by 51 million hours during the past three years.

We are pleased to have the Chief Information Officers of the Environmental Protection Agency, the Department of Labor, and the Department of Transportation with us today. Together, these three agencies account for over 557 million hours of burden. To put this figure into perspective,

279,000 employees would have to spend 40 hours per week, 50 weeks per year filling out paperwork just for these three agencies.

Without question, the task of reducing burden is a difficult one; and our witnesses will likely attest to that. But the term "customer service" should not be foreign to Federal agencies. The intent of Congress was very clear when it passed the 1995 PRA: Since burden is imposed by an agency, it is the agency's responsibility to minimize that burden.

We are also pleased to have Linda Koontz of the Government Accountability Office with us today. Her testimony will provide the Subcommittee vital insights into efforts by Federal agencies to reduce burden through compliance with the Paperwork Reduction Act and beyond what is required by law. In preparation for this hearing, Chairman Tom Davis and I requested the GAO to assess agency compliance with the PRA.

The GAO concluded that, government-wide, agency CIOs generally reviewed information collections and certified they met the standards outlined by the Paperwork Reduction Act. However, its analysis showed that CIOs certified collections even though support for these standards was often missing or partial.

This is highly troubling because without support from agencies showing the standards are met, Congress and the public cannot be confident that the highest degree of attention was focused on minimizing burden.

I want to thank each of our witnesses today. I look forward to your testimony. The Subcommittee hopes to understand the processes agencies have instituted to not only ensure compliance with the PRA, but also what is being done to minimize the burden imposed on the public.

Every hour spent by an individual or business completing paperwork for the Federal government is an hour of loss productivity. An excessive and unnecessary burden imposed on individuals and businesses hurts job creation and harms our competitiveness in a global economy. America's businesses should have the confidence that our government is doing all it can to promote economic expansion. I fear that this is not the case and that the opposite is true—government is hurting businesses.

Thank you.

Mr. LYNCH. Well, thank you, Madam Chairwoman.

First of all, I would like to thank you, Madam Chairwoman, for convening this hearing to examine what agencies are doing to decrease the amount of paperwork that Americans are forced to do in compliance with various laws administered by these agencies.

Information collection, I think, if done efficiently, can be one of the most important and most powerful and necessary tools of the Federal Government. Information gathering enables our government to collect taxes, administer programs and enforce the law. Some collections are also used to provide important information to the public.

For example, under the EPA's Toxic Release Inventory businesses are required to report information about the toxic chemicals they release into our air and water. EPA then makes that information publicly available, and this holds polluters accountable and it enables members of the public to find out about the toxic chemicals being released into their neighborhoods and their towns.

It also has been an effective tool to discourage companies from polluting and to tighten their operating procedures. They do that voluntarily under the threat of disclosure. Without the government mandate to publish that information, and without accurate information, there would be a built-in inefficiency that future companies and successor companies are forced to pay the cost of the damage done by their predecessors.

While it is critical for agencies to collect certain information in order to do their jobs, it is also very, very important that the process be as easy as possible without losing necessary information.

When an agency requests information from the public, individuals and businesses have to spend time and effort gathering that requested information and then filling out the required forms. Everyone can agree that information requests should be clear and simple and should be available electronically.

Today we will have the benefit of hearing from the Chief Information Officers from EPA, the Department of Labor and the Department of Transportation. I am looking forward to hearing from each of you what your agencies are doing to improve how information is collected.

I have also had a chance to look at the GAO report that Madam Chairwoman referred to earlier, and I am concerned as well about the compliance factor in terms of meeting the 10 standards, which are, I believe, fair and reasonable in reducing paperwork to all respondents, both businesses and individuals.

In the report being released today on agency compliance with Paperwork Reduction Act, GAO highlighted the efforts that have been made by the IRS and EPA. According to GAO, these agencies have devoted significant resources to reducing the burden on individuals in businesses and have proactively involved stakeholders in the review of certain information collections.

GAO also reports that the EPA has made burden reduction a priority because of the high visibility of the agency's information collection and because, among other reasons, the success of the EPA's enforcement mission depends on information collections being properly justified and approved. GAO quotes an EPA official saying

that information collections are the lifeblood of the agency and its work.

Because regulatory agencies such as the EPA and the DOL and the Department of Transportation cannot function without information, it's important to reduce that paperwork, not cut to the bone, and focus instead on making information collections more efficient while maintaining the agency's ability to collect the information they need to do their job and that allow the agencies the freedom to do just that.

I want to thank Madam Chairwoman again for her help and her leadership on this issue and convening this hearing. I also want to thank the witnesses for being here today, and I look forward to your testimony.

Thank you, Madam Chairwoman.

Mrs. MILLER. Thank you.

It's the practice of the Government Reform Committee to swear in all of our witnesses, so if you could all stand please and raise your right hands.

[Witnesses sworn].

Mrs. MILLER. As we begin with the witnesses today, we ask you to try to keep your oral testimony to 5 minutes. I won't be right on the money with that. But in the interest of time, if you could watch the little boxes in front of you. When the yellow light comes on that means you have 1 minute remaining, and of course the red light means 5 minutes are up. If you have not concluded by then I would ask you to try to sort of wrap it up by that time.

Our first witness, Linda Koontz, is the Director of Information Management Issues at the U.S. Government Accountability Office. Mrs. Koontz is responsible for issues concerning the collection user and dissemination of government information in an era of rapidly changing technology. Among many of her official duties Mrs. Koontz has lead responsibility for information technology management issues at various agencies, including the Department of Veterans Affairs and Housing and Urban Development and the Social Security Administration. Ms. Koontz has a BA Degree, Bachelor's from Michigan University, "Go Green," and is a Certified Government Financial Manager and a member of the Association for Information and Image Management Standards Board.

We certainly look forward to your testimony, Ms. Koontz.

STATEMENTS OF LINDA D. KOONTZ, DIRECTOR, INFORMATION MANAGEMENT ISSUES, U.S. GOVERNMENT ACCOUNTABILITY OFFICE; KIMBERLY T. NELSON, ASSISTANT ADMINISTRATOR AND CHIEF INFORMATION OFFICER, U.S. ENVIRONMENTAL PROTECTION AGENCY; PATRICK PIZZELLA, ASSISTANT SECRETARY FOR ADMINISTRATION AND MANAGEMENT, U.S. DEPARTMENT OF LABOR; DANIEL P. MATTHEWS, CHIEF INFORMATION OFFICER, U.S. DEPARTMENT OF TRANSPORTATION; KEVIN BARRETT, CERTIFIED INDUSTRIAL HYGIENIST [CIH] AND CERTIFIED SAFETY PROFESSIONAL [CSP], BARRETT OPERATIONAL SAFETY AND HEALTH MANAGEMENT SERVICES; AND SEAN MOULTON, SENIOR INFORMATION POLICY ANALYST, OMB WATCH

STATEMENT OF LINDA D. KOONTZ

Ms. KOONTZ. I thank you, Chairwoman Miller and members of the subcommittee. I am pleased to be here today to discuss the implementation of the Paperwork Reduction Act. As you know, the primary goals of the act are to minimize the government paperwork burden on the public while maximizing the public benefit and utility of the information collections that the government undertakes.

In May 2005, OMB provided its annual PRA report to the Congress. According to this report, the paperwork burden imposed by all Federal information collections shrank slightly in fiscal year 2004. The total burden was estimated at 7.971 billion hours, which is a decrease of about 1.6 percent from the previous year's estimate of about 8.099 billion hours.

Different types of changes contributed to the overall change in the total burden estimates, according to OMB. For example, some of the decrease, about 156 million hours, arose from adjustments to the estimates, including changes in estimation methods and in the population of respondents. In addition, agency burden reduction efforts led to a decrease of about 97 million hours. These decreases were partially offset by increases in other categories, primarily an increase of 199 million hours arising from new statutes.

However, there are limitations in the government's ability to develop accurate burden estimates, which means that the degree to which agency burden hour estimates reflect real burden is unclear, and so the significance of small changes in these estimates is also uncertain. Nonetheless, these estimates are the best indicators of Federal paperwork burden that we have, and they can be useful as long as we keep the limitations in mind.

To help achieve the goals of minimizing burden while maximizing utility, the PRA includes a range of provisions, including a requirement for Chief Information Officers to review and certify that information collections meet certain standards. Government-wide, we found that agency CIOs generally reviewed information collections before they were submitted to OMB and certified that the required standards in the act were met.

However, in reviewing 12 case studies we found that CIOs provided these certifications despite often missing or inadequate support from the program offices supporting the collections. Further, although the law requires CIOs to provide support for certifi-

cations, agency files contained little evidence that CIO reviewers had made efforts to improve the support by program offices. Numerous factors have contributed to these problems, including a lack of management support and weaknesses in OMB guidance.

As a result the CIO reviews appear to be lacking in the rigor that Congress envisioned and have not been shown to reduce burden. On the other hand, alternative approaches to burden reduction suggest promising alternatives to the current review process outlined in the PRA.

Specifically, IRS and EPA have used additional evaluative processes that focused specifically on reducing burden. These processes are targeted resource intensive efforts that outreach to stakeholders. According to these agencies, their procedures led to significant reduction in burden to the public while maximizing the utility of the information collections.

In summary, government agencies often need to collect information to perform their missions. The PRA puts in place mechanisms to focus agency attention on the need to minimize the burdens that these collections impose while maximizing the public benefit and utility of government information collections. But these mechanisms have not succeeded in achieving the ambitious reduction of goals set forth in the 1995 amendments. Achieving real reductions in the paperwork burden is an elusive goal, as years of PRA reports attest.

Although the CIO reviews required by the act as currently implemented seems to have little effect, targeted approaches to burden reduction such as those used by the IRS and EPA could be effective. These agencies' experience also suggest that to make such approaches successful requires top level executive commitment, extensive involvement of program office staff with appropriate expertise and aggressive outreach to stakeholders.

Indications are that this would be more resource intensive than the current process and in fact such an approach may not be warranted at agencies that do not have the level of paperwork issues that face IRS and similar agencies.

Consequently, it is critical that any efforts to expand the use of the IRS and EPA models consider these factors. In a report that is being released today we recommend that the OMB and agencies take steps to improve reviewing processes in compliance with the act. We also suggested that the Congress may wish to consider mandating pilot projects to target some collections for rigorous analysis along the lines of the IRS and EPA approaches. By taking these steps, we believe that government can make further progress in realizing the vision reflected in the PRA.

Chairwoman Miller, this completes my statement. I would be pleased to answer questions at the appropriate time.

[The prepared statement of Ms. Koontz follows:]

United States Government Accountability Office

GAO

Testimony

Before the Subcommittee on Regulatory Affairs, Committee on Government Reform, House of Representatives

For Release on Delivery
Expected at 2 p.m. EDT
Tuesday, June 14, 2005

PAPERWORK REDUCTION ACT

Burden Reduction May Require a New Approach

Statement of Linda D. Koontz
Director, Information Management

GAO-05-778T

June 14, 2005

GAO
Accountability · Integrity · Reliability

Highlights

Highlights of GAO-05-778T, a testimony before the Subcommittee on Regulatory Affairs, Committee on Government Reform, House of Representatives

PAPERWORK REDUCTION ACT

Reducing Burden May Require a New Approach

Why GAO Did This Study

Americans spend billions of hours each year providing information to federal agencies by filling out information collections (forms, surveys, or questionnaires). A major aim of the Paperwork Reduction Act (PRA) is to minimize the burden that these collections impose on the public, while maximizing their public benefit. Under the act, the Office of Management and Budget (OMB) is to approve all such collections and to report annually on the agencies' estimates of the associated burden. In addition, agency Chief Information Officers (CIO) are to review information collections before they are submitted to OMB for approval and certify that the collections meet certain standards set forth in the act.

For its testimony, GAO was asked to comment on OMB's burden report for 2004 and to discuss its recent study of PRA implementation (GAO-05-424), concentrating on CIO review and certification processes and describing alternative processes that two agencies have used to minimize burden. For its study, GAO reviewed a governmentwide sample of collections, reviewed processes and collections at four agencies that account for a large proportion of burden, and performed case studies of 12 approved collections.

www.gao.gov/cgi-bin/getrpt?GAO-05-778T.

To view the full product, including the scope and methodology, click on the link above. For more information, contact Linda Koontz at (202) 512-6240 or koontzl@gao.gov.

What GAO Found

The total paperwork burden imposed by federal information collections shrank slightly in fiscal year 2004, according to estimates provided in OMB's annual PRA report to Congress. The estimated total burden was 7.971 billion hours—a decrease of 1.6 percent (128 million burden hours) from the previous year's total of about 8.099 billion hours. Different types of changes contributed to the overall change in these estimates, according to OMB. For example, adjustments to the estimates (from such factors as changes in estimation methods and estimated number of respondents) accounted for a decrease of about 156 million hours (1.9 percent), and agency burden reduction efforts led to a decrease of about 97 million hours (1.2 percent). These decreases were partially offset by increases in other categories, primarily an increase of 119 million hours (1.5 percent) arising from new statutes. However, because of limitations in the accuracy of burden estimates, the significance of small changes in these estimates is unclear. Nonetheless, as the best indicators of paperwork burden available, these estimates can be useful as long as the limitations are clearly understood.

Among the PRA provisions aimed at helping to achieve the goals of minimizing burden while maximizing utility is the requirement for CIO review and certification of information collections. GAO's review of 12 case studies showed that CIOs provided these certifications despite often missing or inadequate support from the program offices sponsoring the collections. Further, although the law requires CIOs to provide support for certifications, agency files contained little evidence that CIO reviewers had made efforts to improve the support offered by program offices. Numerous factors have contributed to these problems, including a lack of management support and weaknesses in OMB guidance. Because these reviews were not rigorous, OMB, the agency, and the public had reduced assurance that the standards in the act—such as minimizing burden—were consistently met.

In contrast, the Internal Revenue Service (IRS) and the Environmental Protection Agency (EPA) have set up processes outside the CIO review process that are specifically focused on reducing burden. These agencies, whose missions involve numerous information collections, have devoted significant resources to targeted burden reduction efforts that involve extensive outreach to stakeholders. According to the two agencies, these efforts led to significant reductions in burden on the public. In contrast, for the 12 case studies, the CIO review process did not reduce burden.

In its report, GAO recommended that OMB and the agencies take steps to improve review processes and compliance with the act. GAO also suggested that the Congress may wish to consider mandating pilot projects to target some collections for rigorous analysis along the lines of the IRS and EPA approaches. OMB and the agencies agreed with most of the recommendations, but disagreed with aspects of GAO's characterization of agencies' compliance with the act's requirements.

Madam Chairman and Members of the Subcommittee:

I am pleased to be here today to discuss the implementation of the Paperwork Reduction Act (PRA).[1] As you know, the primary goals of the act are to minimize the government paperwork burden on the public while maximizing the public benefit and utility of the information collections that the government undertakes. To achieve these goals, the PRA includes a range of provisions that establish standards and procedures for effective implementation and oversight. Among these provisions is the requirement for the Office of Management and Budget (OMB) to report annually to the Congress on the estimated burden imposed on the public by government information collections (forms, surveys, and questionnaires). Another requirement is that agencies not establish information collections without having them approved by OMB, and that before submitting them for approval, agencies' Chief Information Officers (CIO) certify that the collection meets 10 specified standards (for example, that it avoids unnecessary duplication and minimizes burden).

As you requested, I will begin by commenting briefly today on the estimates of government paperwork burden provided in the annual PRA report (known as the Information Collection Budget) that OMB recently released, which presents federal agencies' estimates of federal paperwork burden as of the end of fiscal year 2004. I will then discuss results from a report that we prepared on PRA processes and compliance, which is being released today.[2] I will concentrate on our findings regarding agencies' processes to certify that information collections meet PRA standards and on alternative processes that two agencies have used to minimize burden.

[1] The Paperwork Reduction Act was originally enacted into law in 1980 (Pub. L. 96-511, Dec. 11, 1980). It was reauthorized with minor amendments in 1986 (Pub. L. 99-591, Oct. 30, 1986) and was reauthorized a second time with more significant amendments in 1995 (Pub. L. 104-13, May 22, 1995).

[2] GAO, *Paperwork Reduction Act: New Approach May Be Need to Reduce Government Burden on Public*, GAO-05-424 (Washington, D.C.: May 20, 2005).

In preparing this testimony, we reviewed our testimonies on previous annual PRA reports as well as examining the most recent one. For our discussion of the certification process, we drew on our report, for which we performed detailed reviews of paperwork clearance processes and collections at four agencies: the Department of Veterans Affairs (VA), the Department of Housing and Urban Development (HUD), the Department of Labor, and the Internal Revenue Service (IRS). Together, these four agencies represent a broad range of paperwork burdens, and in 2003, they accounted for about 83 percent of the 8.1 billion hours of estimated paperwork burden for all federal agencies. Of this total, IRS alone accounted for about 80 percent.[3] We also selected 12 approved collections as case studies (three at each of the four agencies) to determine how effective agency processes were. In addition, we analyzed a random sample (343) of all OMB-approved collections governmentwide as of May 2004 (8,211 collections at 68 agencies) to determine compliance with the act's requirements regarding agency certification of the 10 standards and consultation with the public. We designed the random sample so that we could determine compliance levels at the four agencies and governmentwide. Finally, although the Environmental Protection Agency (EPA) was not one of the agencies whose processes we reviewed, we analyzed documents and interviewed officials concerning the agency's efforts to reduce the burden of its information collections. Further details on our scope and methodology are provided in our report.

The work on which this testimony is based was conducted from May 2004 to May 2005, in accordance with generally accepted government auditing standards.

[3]Although IRS accounted for about 80 percent of burden, it did not account for 80 percent of collections: it accounted for 808 out of the total 8,211 collections governmentwide as of May 2004.

Results in Brief

The total paperwork burden imposed by federal information collections shrank slightly in fiscal year 2004, according to estimates provided in OMB's May 2005 annual PRA report to Congress. The estimated total burden was 7.971 billion hours, which is a decrease of 1.6 percent (128 million burden hours) from the previous year's total of about 8.099 billion hours. Different types of changes contributed to the overall change in the total burden estimates, according to OMB. For example, adjustments to the estimates (from such factors as changes in estimation methods and the population of respondents[4]) accounted for a decrease of about 156 million hours (1.9 percent), and agency burden reduction efforts led to a decrease of about 97 million hours (1.2 percent). These decreases were partially offset by increases in other categories, primarily an increase of 119 million hours (1.5 percent) arising from new statutes. However, because of limitations in the ability to develop accurate burden estimates, the degree to which agency burden-hour estimates reflect real burden is unclear, and so the significance of small changes in these estimates is also uncertain. Nonetheless, these estimates are the best indicators of paperwork burden available, and they can be useful as long as the limitations are clearly understood.

Among the PRA provisions intended to help achieve the goals of minimizing burden while maximizing utility is the requirement for CIO review and certification of information collections. Governmentwide, agency CIOs generally reviewed information collections before they were submitted to OMB and certified that the required standards in the act were met. However, our review of 12 case studies showed that CIOs provided these certifications despite often missing or inadequate support from the program offices sponsoring the collections. Further, although the law requires CIOs to provide support for certifications, agency files

[4] That is, an agency may change its method for estimating the burden associated with a collection of information, or new information or circumstances may lead to a changed estimate of the number of respondents (the people or entities that can or must respond to an information collection).

contained little evidence that CIO reviewers had made efforts to improve the support offered by program offices. Numerous factors have contributed to these problems, including a lack of management support and weaknesses in OMB guidance. Because these reviews were not rigorous, OMB, the agency, and the public have reduced assurance that the standards in the act—such as avoiding duplication and minimizing burden—were consistently met.

In contrast, IRS and EPA have used additional evaluative processes that focus specifically on reducing burden. These processes are targeted, resource-intensive efforts that involved extensive outreach to stakeholders. According to these agencies, their processes led to significant reductions in burden on the public while maximizing the utility of the information collections.

In our report, we recommended that OMB and the agencies take steps to improve review processes and compliance with the act. We also suggested that the Congress may wish to consider mandating pilot projects to target some collections for rigorous analysis along the lines of the IRS and EPA approaches. OMB and the agencies agreed with most of the recommendations, but disagreed with aspects of GAO's characterization of agencies' compliance with the act's requirements.[5]

Background

Collecting information is one way that federal agencies carry out their missions. For example, IRS needs to collect information from taxpayers and their employers to know the correct amount of taxes owed. The U.S. Census Bureau collects information used to apportion congressional representation and for many other

[5] For example, OMB, the Treasury, Labor, and HUD disagreed with our position that the PRA requires agencies both to publish a *Federal Register* notice and to otherwise consult with public. Our position, however, is that the PRA's language is unambiguous: agencies shall "provide 60-day notice in the *Federal Register*, and otherwise consult with members of the public and affected agencies concerning each proposed collection..." Pub. L. 104-13, 109 Stat. 173, 44 U.S.C. 3506(c)(2).

purposes. When new circumstances or needs arise, agencies may need to collect new information. We recognize, therefore, that a large portion of federal paperwork is necessary and often serves a useful purpose.

Nonetheless, besides ensuring that information collections have public benefit and utility, federal agencies are required by the PRA to minimize the paperwork burden that they impose. Among the act's provisions aimed at this purpose are detailed requirements, included in the 1995 amendments to the PRA, spelling out how agencies are to review information collections before submitting them to OMB for approval. According to these amendments, an agency official independent of those responsible for the information collections (that is, the program offices) is to evaluate whether information collections should be approved. This official is the agency's CIO,[6] who is to review each collection of information to certify that the collection meets 10 standards (see table 1) and to provide support for these certifications.

[6]The 1995 amendments used the 1980 act's reference to the agency "senior official" responsible for implementation of the act. A year later, Congress gave that official the title of agency Chief Information Officer (the Information Technology Management Reform Act, Pub. L. 104-106, Feb. 10, 1996, which was subsequently renamed the Clinger-Cohen Act, Pub. L. 104-208, Sept. 30, 1996).

Table 1: Standards for Information Collections Set by the Paperwork Reduction Act

Standards
The collection is necessary for the proper performance of agency functions.
The collection avoids unnecessary duplication.
The collection reduces burden on the public, including small entities, to the extent practicable and appropriate.
The collection uses plain, coherent, and unambiguous language that is understandable to respondents.
The collection will be consistent and compatible with respondents' current reporting and recordkeeping practices to the maximum extent practicable.
The collection indicates the retention period for any recordkeeping requirements for respondents.
The collection informs respondents of the information they need to exercise scrutiny of agency collections information (the reasons the information is collected; the way it is used; an estimate of the burden; whether responses are voluntary, required to obtain a benefit, or mandatory; and a statement that no person is required to respond unless a valid OMB control number is displayed).
The collection was developed by an office that has planned and allocated resources for the efficient and effective management and use of the information to be collected.
The collection uses effective and efficient statistical survey methodology (if applicable).
The collection uses information technology to the maximum extent practicable to reduce burden and improve data quality, agency efficiency and responsiveness to the public.

Source: Paperwork Reduction Act, Pub. L. 104-13, 109 Stat. 173-4, sec. 3506(c)(3).

In addition, the original PRA of 1980 (section 3514(a)) requires OMB to keep Congress "fully and currently informed" of the major activities under the act and to submit a report to Congress at least annually on those activities. Under the 1995 amendments, this report must include, among other things, a list of any increases in burden. To satisfy this requirement, OMB prepares the annual PRA report, which reports on agency actions during the previous fiscal year, including changes in agencies' burden-hour estimates.

In addition, the 1995 PRA amendments required OMB to set specific goals for reducing burden from the level it had reached in 1995: at least a 10 percent reduction in the governmentwide burden-hour estimate for each of fiscal years 1996 and 1997, a 5 percent governmentwide burden reduction goal in each of the next 4 fiscal years, and annual agency goals that reduce burden to the "maximum practicable opportunity." At the end of fiscal year 1995, federal agencies estimated that their information collections imposed about 7 billion burden hours on the public. Thus, for these reduction goals

to be met, the burden-hour estimate would have had to decrease by about 35 percent, to about 4.6 billion hours, by September 30, 2001. In fact, on that date, the federal paperwork estimate had increased by about 9 percent, to 7.6 billion burden hours.

For the most recent PRA report, the OMB Director sent a bulletin in September 2004 to the heads of executive departments and agencies requesting information to be used in preparing its report on actions during fiscal year 2004. In May 2005, OMB published this report, which shows changes in agencies' burden-hour estimates during fiscal year 2004.

Reported Paperwork Burden Decreased Slightly in 2004

According to OMB's most recent PRA report to Congress, the estimated total burden hours imposed by government information collections in fiscal year 2004 was 7.971 billion hours; this is a decrease of 128 million burden hours (1.6 percent) from the previous year's total of about 8.099 billion hours. It is also about a billion hours larger than in 1995 and 3.4 billion larger than the PRA target for the end of fiscal year 2001 (4.6 billion burden hours).

The reduction for fiscal year 2004 was a result of several types of changes, which OMB assigns to various categories. OMB classifies all changes—either increases or decreases—in agencies' burden-hour estimates as either "program changes" or "adjustments."

- Program changes are the result of deliberate federal government action (e.g., the addition or deletion of questions on a form) and can occur as a result of new statutory requirements, agency-initiated actions, or the expiration or reinstatement of OMB-approved collections.[7]

[7] When an agency allows OMB approval of a collection to lapse but continues to collect the information, this is a violation of the PRA. However, the expired collection is accounted for as a decrease in burden. When the approval is reinstated, the reinstatement is accounted for as an increase in burden in OMB's accounting system. The lapse and reinstatement thus generally cancel each other out, unless the reinstatement involves changed burden estimates based on new analysis.

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

Table 2 shows the changes in reported burden totals since the fiscal year 2003 PRA report.

Table 2: Changes in Governmentwide Reported Burden Totals by Category

In millions	Change from fiscal year 2003 PRA report total (hours and percentage)	
Category of change		
Baseline: Fiscal year 2003 total	8,098.79	
Fiscal year 2004 program changes:		
Changes due to agency action	–96.84	(–1.2%)
Changes due to new statutes	119.00	(1.5%)
Changes due to lapses in OMB approval	6.39	(0.1%)
Total program changes	28.54	(0.4%)
Fiscal year 2004 adjustments	–156.15	(–1.9%)
Fiscal year 2004 total	**7971.18**	**(–1.6%)**

Source: OMB annual PRA reports.

As table 2 shows, the change in the "adjustments" category was the largest factor in the decrease for fiscal year 2004. These results are similar to those for fiscal year 2003, in which adjustments of 181.7 million hours led to an overall decrease of 116.3 million hours (1.4 percent) in total burden estimated. The slight decreases that occurred in fiscal years 2004 and 2003 followed several years of increases, as shown in table 3. As table 3 also shows, if adjustments are disregarded, the federal government paperwork burden would have increased by about 28.5 million burden hours in fiscal year 2004 ("total program changes" in table 2).

Table 3: Increases in Burden Hours Due to Program Changes Between Fiscal Years 1998 and 2004

In millions

Fiscal year	Total governmentwide burden-hour estimate	Net increase in burden hours due to program changes
2004	7,971.2	28.5
2003	8,105.4	72.1
2002	8,223.2	294.1
2001	7,651.4	158.7
2000	7,361.0	188.0
1999	7,183.9	189.0
1998	6,951.1	41.1

Source: OMB.

The largest percentage of governmentwide burden can be attributed to the IRS. In fiscal year 2004, IRS accounted for about 78 percent of governmentwide burden: about 6210 million hours. No other agency's estimate approaches this level: As of September 30, 2004, only five agencies had burden-hour estimates of 100 million hours or more (the Departments of Health and Human Services, Labor, and Transportation; EPA; and the Securities and Exchange Commission). Thus, as we have previously reported, changes in paperwork burden experienced by the federal government have been largely attributable to changes associated with IRS.[8]

However, in interpreting these figures, it is important to keep in mind their limitations. First, as estimates, they are not precise; changes from year to year, particularly small ones, may not be meaningful. Second, burden-hour estimates are not a simple matter. The "burden hour" has been the principal unit of paperwork burden for more than 50 years and has been accepted by agencies and the public because it is a clear, easy-to-understand concept. However, it is challenging to estimate the amount of time it will take for a respondent to collect and provide the information or how many

[8] GAO, *Paperwork Reduction Act: Agencies' Paperwork Burden Estimates Due to Federal Actions Continue to Increase*, GAO-04-676T (Washington, D.C.: Apr. 20, 2004).

individuals an information collection will affect.[9] Therefore, the degree to which agency burden-hour estimates reflect real burden is unclear. (IRS is sufficiently concerned about the methodology it uses to develop burden estimates that it is in the process of developing and testing alternative means of measuring paperwork burden.) Because of these limitations, the degree to which agency burden-hour estimates reflect real burden is unclear, and so the significance of small changes in these estimates is also uncertain. Nonetheless, these estimates are the best indicators of paperwork burden available, and they can be useful as long as the limitations are clearly understood.

Agency Review Processes Were Not Rigorous

Among the PRA provisions intended to help achieve the goals of minimizing burden while maximizing utility are the requirements for CIO review and certification of information collections. The 1995 amendments required agencies to establish centralized processes for reviewing proposed information collections within the CIO's office. Among other things, the CIO's office is to certify, for each collection, that the 10 standards in the act have been met, and the CIO is to provide a record supporting these certifications.

The four agencies in our review all had written directives that implemented the review requirements in the act, including the requirement for CIOs to certify that the 10 standards in the act were met. The estimated certification rate ranged from 100 percent at IRS and HUD to 92 percent at VA. Governmentwide, agencies certified that the act's 10 standards had been met on an estimated 98 percent of the 8,211 collections.

However, in the 12 case studies that we reviewed, this CIO certification occurred despite a lack of rigorous support that all standards were met. Specifically, the support for certification was

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

missing or partial on 65 percent (66 of 101) of the certifications.[10] Table 4 shows the result of our analysis of the case studies.

Table 4: Support Provided by Agencies for Paperwork Reduction Act Standards in 12 Case Studies

		Support provided		
Standards	**Total[a]**	**Yes**	**Partial**	**No**
The collection is necessary for the proper performance of agency functions.	12	6	6	0
The collection avoids unnecessary duplication.	11	2	2	7
The collection reduces burden on the public, including small entities, to the extent practicable and appropriate.	12	5	7	0
The collection uses plain, coherent, and unambiguous language that is understandable to respondents.	12	1	0	11
The collection will be consistent and compatible with respondents' current reporting and recordkeeping practices to the maximum extent practicable.	12	3	0	9
The collection indicates the retention period for any recordkeeping requirements for respondents.[b]	6	3	3	0
The collection informs respondents of the information they need to exercise scrutiny of agency collections (i.e., the reasons the information is collected; the way it is used; an estimate of the burden; whether responses are voluntary, required to obtain a benefit, or mandatory; and a statement that no person is required to respond unless a valid OMB control number is displayed).[b]	12	4	8	0
The collection was developed by an office that has planned and allocated resources for the efficient and effective management and use of the information to be collected.	11	2	0	9
The collection uses effective and efficient statistical survey methodology (if applicable).	1	1	0	0
The collection uses information technology to the maximum extent practicable to reduce burden and improve data quality, agency efficiency, and responsiveness to the public.	12	8	4	0
Totals	**101**	**35**	**30**	**36**

Sources: Paperwork Reduction Act, GAO.

[a]The total number of certifications is not always 12 because not all certifications applied to all collections.

[b]For these two standards, the presence on the forms of the information indicated was categorized as support, the absence of some elements was categorized as partial support, and the absence of all elements was categorized as no support.

For example, under the act, CIOs are required to certify that each information collection is not unnecessarily duplicative. According to OMB instructions, agencies are to (1) describe efforts to identify duplication and (2) show specifically why any similar information already available cannot be used or modified for the purpose described.

[10]The total number of certifications does not total 120 (12 cases times 10 standards) because some standards did not apply to some cases.

In 2 of 11 cases, agencies provided the description requested; for example:

> Program reviews were conducted to identify potential areas of duplication; however, none were found to exist. There is no known Department or Agency which maintains the necessary information, nor is it available from other sources within our Department.

In an additional 2 cases, partial support was provided. An example is the following, provided by Labor:

> [The Employer Assistance Referral Network (EARN)] is a new, nationwide service that does not duplicate any single existing service that attempts to match employers with providers who refer job candidates with disabilities. While similar job-referral services exist at the state level, and some nation-wide disability organizations offer similar services to people with certain disabilities, we are not aware of any existing survey that would duplicate the scope or content of the proposed data collection. Furthermore, because this information collection involves only providers and employers interested in participating in the EARN service, and because this is a new service, a duplicate data set does not exist.

While this example shows that the agency attempted to identify duplicative sources, it does not discuss why information from state and other disability organizations could not be aggregated and used, at least in part, to satisfy the needs of this collection.

In 7 cases, moreover, support for these certifications was missing. An example is the following statement, used on all three IRS collections:

> We have attempted to eliminate duplication within the agency wherever possible.

This assertion provides no information on what efforts were made to identify duplication or perspective on why similar information, if any, could not be used. Further, the files contained no evidence that the CIO reviewers challenged the adequacy of this support or provided support of their own to justify their certification.

A second example is provided by the standard requiring each information collection to reduce burden on the public, including

small entities,[11] to the extent practicable and appropriate. OMB guidance emphasizes that agencies are to demonstrate that they have taken every reasonable step to ensure that the collection of information is the least burdensome necessary for the proper performance of agency functions. In addition, OMB instructions and guidance direct agencies to provide specific information and justifications: (1) estimates of the hour and cost burden of the collections and (2) justifications for any collection that requires respondents to report more often than quarterly, respond in fewer than 30 days, or provide more than an original and two copies of documentation.

With regard to small entities, OMB guidance states that the standard emphasizes such entities because these often have limited resources to comply with information collections.[12] The act cites various techniques for reducing burden on these small entities,[13] and the guidance includes techniques that might be used to simplify requirements for small entities, such as asking fewer questions, taking smaller samples than for larger entities, and requiring small entities to provide information less frequently.

Our review of the case examples found that for the first part of the certification, which focuses on reducing burden on the public, the files generally contained the specific information and justifications called for in the guidance. However, none of the case examples

[11]OMB's instructions to agencies state that a small entity may be (1) a small business, which is deemed to be one that is independently owned and operated and that is not dominant in its field of operation; (2) a small organization, which is any not-for-profit enterprise that is independently owned and operated and is not dominant in its field; or (3) a small government jurisdiction, which is a government of a city, county, town, township, school district, or special district with a population of less than 50,000.

[12]"Particularly for small businesses, paperwork burdens can force the redirection of resources away from business activities that might otherwise lead to new and better products and services, and to more and better jobs. Accordingly, the Federal Government owes the public an ongoing commitment to scrutinize its information requirements to ensure the imposition of only those necessary for the proper performance of an agency's functions." H. Report 104-37 (Feb. 15, 1995) p. 23.

[13]These include (a) establishing different compliance or reporting requirements or timetables for respondents with fewer available resources; (b) clarifying, consolidating, or simplifying compliance and reporting requirements; and (c) exempting certain respondents from coverage of all or part of the collection.

contained support that addressed how the agency ensured that the collection was the least burdensome necessary. According to agency CIO officials, the primary cause for this absence of support is that OMB instructions and guidance do not direct agencies to provide this information explicitly as part of the approval package.

For the part of the certification that focuses on small businesses, our governmentwide sample included examples of various agency activities that are consistent with this standard. For instance, Labor officials exempted 6 million small businesses from filing an annual report; telephoned small businesses and other small entities to assist them in completing a questionnaire; reduced the number of small businesses surveyed; and scheduled fewer compliance evaluations on small contractors.

For four of our case studies, however, complete information that would support certification of this part of the standard was not available. Seven of the 12 case studies involved collections that were reported to impact businesses or other for-profit entities, but for 4 of the 7, the files did not explain either

- why small businesses were not affected or
- even though such businesses were affected, that burden could or could not be reduced.

Referring to methods used to minimize burden on small business, the files included statements such as "not applicable." These statements do not inform the reviewer whether there was an effort made to reduce burden on small entities or not. When we asked agencies about these four cases, they indicated that the collections did, in fact, affect small business.

OMB's instructions to agencies on this part of the certification require agencies to describe any methods used to reduce burden only if the collection of information has a "significant economic impact on a substantial number of small entities." This does not appropriately reflect the act's requirements concerning small business: the act requires that the CIO certify that the information collection reduces burden on small entities in general, to the extent practical and appropriate, and provides no thresholds for the level

of economic impact or the number of small entities affected. OMB officials acknowledged that their instruction is an "artifact" from a previous form and more properly focuses on rulemaking rather than the information collection process.

The lack of support for these certifications appears to be influenced by a variety of factors. In some cases, as described above, OMB guidance and instructions are not comprehensive or entirely accurate. In the case of the duplication standard specifically, IRS officials said that the agency does not need to further justify that its collections are not duplicative because (1) tax data are not collected by other agencies so there is no need for the agency to contact them about proposed collections and (2) IRS has an effective internal process for coordinating proposed forms among the agency's various organizations that may have similar information. Nonetheless, the law and instructions require support for these assertions, which was not provided.

In addition, agency reviewers told us that management assigns a relatively low priority and few resources to reviewing information collections. Further, program offices have little knowledge of and appreciation for the requirements of the PRA. As a result of these conditions and a lack of detailed program knowledge, reviewers often have insufficient leverage with program offices to encourage them to improve their justifications.

When support for the PRA certifications is missing or inadequate, OMB, the agency, and the public have reduced assurance that the standards in the act, such as those on avoiding duplication and minimizing burden, have been consistently met.

Two Agencies Have Developed Processes to Reduce Burden Associated with Information Collections

IRS and EPA have supplemented the standard PRA review process with additional processes aimed at reducing burden while maximizing utility. These agencies' missions require them both to

deal extensively with information collections, and their management has made reduction of burden a priority.[14]

In January 2002, the IRS Commissioner established an Office of Taxpayer Burden Reduction, which includes both permanently assigned staff and staff temporarily detailed from program offices that are responsible for particular information collections. This office chooses a few forms each year that are judged to have the greatest potential for burden reduction (these forms have already been reviewed and approved through the CIO process). The office evaluates and prioritizes burden reduction initiatives by

- determining the number of taxpayers impacted;
- quantifying the total time and out-of-pocket savings for taxpayers;
- evaluating any adverse impact on IRS's voluntary compliance efforts;
- assessing the feasibility of the initiative, given IRS resource limitations; and
- tying the initiative into IRS objectives.

Once the forms are chosen, the office performs highly detailed, in-depth analyses, including extensive outreach to the public affected, the users of the information within and outside the agency, and other stakeholders. This analysis includes an examination of the need for each data element requested. In addition, the office thoroughly reviews form design.[15]

The office's Director[16] heads a Taxpayer Burden Reduction Council, which serves as a forum for achieving taxpayer burden reduction

[14]"IRS is committed to reducing taxpayer burden and established the Office of Taxpayer Burden Reduction (OTBR) in January 2002 to lead its efforts." Congressional testimony by the IRS Commissioner, April 20, 2004, before the Subcommittee on Energy Policy, Natural Resources, and Regulatory Affairs, House Committee on Government Reform.

[15]In congressional testimony, the IRS Commissioner stated that OMB had referred another agency to IRS's Office of Taxpayer Burden Reduction as an example of a "best practice" in burden reduction in government.

[16] The Director reports to the IRS Commissioner for the Small Business and Self-Employed Division.

throughout IRS. IRS reports that as many as 100 staff across IRS and other agencies can be involved in burden reduction initiatives, including other federal agencies, state agencies, tax practitioner groups, taxpayer advocacy panels, and groups representing the small business community.

The council directs its efforts in five major areas:

- simplifying forms and publications;
- streamlining internal policies, processes, and procedures;
- promoting consideration of burden reductions in rulings, regulations, and laws;
- assisting in the development of burden reduction measurement methodology; and
- partnering with internal and external stakeholders to identify areas of potential burden reduction.

IRS reports that this targeted, resource-intensive process has achieved significant reductions in burden: over 200 million burden hours since 2002. For example, it reports that about 95 million hours of taxpayer burden were reduced through increases in the income-reporting threshold on various IRS schedules.[17] Another burden reduction initiative includes a review of the forms that 15 million taxpayers use to request an extension to the date for filing their tax returns.[18]

Similarly, EPA officials stated that they have established processes for reviewing information collections that supplement the standard PRA review process. These processes are highly detailed and

[17] In addition, the office reports that IRS staff positions could be freed up through its efforts to raise the reporting threshold on various tax forms and schedules. Fewer IRS positions are needed when there are fewer tax forms and schedules to be reviewed.

[18] We did not verify the accuracy of IRS's reported burden-hour savings. We have previously reported that the estimation model that IRS uses for compliance burden ignores important components of burden and has limited capabilities for analyzing the determinants of burden. See GAO, *Tax Administration: IRS Is Working to Improve Its Estimates of Compliance Burden,* GAO/GGD-00-11 (Washington, D.C.: May 22, 2000). Moreover, IRS has an effort under way to revise the methodology used to compute burden. That new methodology, when completed, may result in different estimates of reduced burden hours.

evaluative, with a focus on burden reduction, avoiding duplication, and ensuring compliance with PRA. According to EPA officials, the impetus for establishing these processes was the high visibility of the agency's information collections and the recognition, among other things, that the success of EPA's enforcement mission depended on information collections being properly justified and approved: in the words of one official, information collections are the "life blood" of the agency.

According to these officials, the CIO staff are not generally closely involved in burden reduction initiatives, because they do not have sufficient technical program expertise and cannot devote the extensive time required.[19] Instead, these officials said that the CIO staff's focus is on fostering high awareness within the agency of the requirements associated with information collections, educating and training the program office staff on the need to minimize burden and the impact on respondents, providing an agencywide perspective on information collections to help avoid duplication, managing the clearance process for agency information collections, and acting as liaison between program offices and OMB during the clearance process. To help program offices consider PRA requirements such as burden reduction and avoiding duplication as they are developing new information collections or working on reauthorizing existing collections, the CIO staff also developed a handbook[20] to help program staff understand what they need to do to comply with PRA and gain OMB approval.

In addition, program offices at EPA have taken on burden reduction initiatives that are highly detailed and lengthy (sometimes lasting years) and that involve extensive consultation with stakeholders (including entities that supply the information, citizens groups, information users and technical experts in the agency and elsewhere, and state and local governments). For example, EPA

[19]These officials added that in exceptional circumstances the CIO office has had staff available to perform such projects, but generally in collaboration with program offices.

[20]EPA Office of Environmental Information, Collection Strategies Division, *ICR Handbook: EPA's Guide to Writing Information Collection Requests Under the Paperwork Reduction Act of 1995*, draft (revised March 2005).

reports that it amended its regulations to reduce the paperwork burden imposed under the Resource Conservation and Recovery Act. One burden reduction method EPA used was to establish higher thresholds for small businesses to report information required under the act. EPA estimates that the initiative will reduce burden by 350,000 hours and save $22 million annually. Another EPA program office reports that it is proposing a significant reduction in burden for its Toxic Release Inventory program.[21]

Overall, EPA and IRS reported that they produced significant reductions in burden by making a commitment to this goal and dedicating resources to it. In contrast, for the 12 information collections we examined, the CIO review process resulted in no reduction in burden. Further, the Department of Labor reported that its PRA reviews of 175 proposed collections over nearly 2 years did not reduce burden.[22] Similarly, both IRS and EPA addressed information collections that had undergone CIO review and received OMB approval and nonetheless found significant opportunities to reduce burden.

In summary, government agencies often need to collect information to perform their missions. The PRA puts in place mechanisms to focus agency attention on the need to minimize the burden that these information collections impose—while maximizing the public benefit and utility of government information collections—but these mechanisms have not succeeded in achieving the ambitious reduction goals set forth in the 1995 amendments. Achieving real reductions in the paperwork burden is an elusive goal, as years of PRA reports attest.

Among the mechanisms to fulfill the PRA's goals is the CIO review required by the act. However, as this process is currently implemented, it has limited effect on the quality of support provided

[21]We did not verify the accuracy of EPA's burden reduction estimates.

[22]These reviews did result in a 1.3 percent reduction in calculated burden by correcting mathematical errors in program offices' submissions.

for information collections. CIO reviews appear to be lacking the rigor that the Congress envisioned. Many factors have contributed to these conditions, including lack of management support, weaknesses in OMB guidance, and the CIO staff's lack of specific program expertise. As a result, OMB, federal agencies, and the public have reduced assurance that government information collections are necessary and that they appropriately balance the resulting burden with the benefits of using the information collected.

The targeted approaches to burden reduction used by IRS and EPA suggest promising alternatives to the current process outlined in the PRA. However, the agencies' experience also suggests that to make such an approach successful requires top-level executive commitment, extensive involvement of program office staff with appropriate expertise, and aggressive outreach to stakeholders. Indications are that such an approach would also be more resource-intensive than the current process. Moreover, such an approach may not be warranted at all agencies that do not have the level of paperwork issues that face IRS and similar agencies. Consequently, it is critical that any efforts to expand the use of the IRS and EPA models consider these factors.

In our report, we suggested options that the Congress may want to consider in its deliberations on reauthorizing the act, including mandating pilot projects to test and review alternative approaches to achieving PRA goals. We also made recommendations to the Director of OMB, including that the office alter its current guidance to clarify and emphasize issues raised in our review, and to the heads of the four agencies to improve agency compliance with the act's provisions.

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

Contacts and Acknowledgments

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Mrs. MILLER. Thank you.

At this time I would like to recognize another member of our committee, Ginny Brown-Waite from Florida, for an opening statement.

Ms. BROWN-WAITE. Thank you very much, Madam Chairwoman. I appreciate your holding this hearing today to assess the paperwork burden imposed on the American public by regulatory agencies. I just came from lunch with a road builder who does a lot of Federal work and with somebody involved in the construction industry, you know, they certainly bent my ear about the paperwork both at the State and at the Federal level, which often seems to be duplicative.

The Paperwork Reduction Act was an important piece of legislation that stated Congress', unfortunately, unambiguous objective to reduce the paperwork burden on the public. However, since passage of this legislation the paperwork burden imposed by agencies has increased rather than decreased.

The three agencies represented at today's hearing single-handedly account for 557.4 million hours of the total burden imposed on the public by the Federal Government in 2004. To put this figure into perspective, 279,000 employees would have to spend 40 hours a week, 50 weeks a year filling out paperwork just for these three agencies. Many believe that this time could be better spent.

The reason for the steady rise in the paperwork are manifold, and part of the blame can be placed squarely on Congress for passing legislation that causes agencies to administer more paperwork.

I am here today to learn more about how agencies determine what paperwork is essential to the performance of their duties and how Congress can help agencies to reduce their paperwork burden. I look forward to hearing the remainder of the speakers and appreciate you all being here and certainly appreciate you, Madam Chairwoman, for holding this hearing.

Mrs. MILLER. All right. Our next witness is Kimberly T. Nelson. November 30, 2001, Ms. Nelson was sworn in as Assistant Administrator for Environmental Information and Chief Information Officer at the EPA.

Since assuming her current role at the EPA Ms. Nelson has been instrumental in expanding the CIO's role with the agency and has overseen the creation and implementation of several major initiatives, including the Central Data Exchange, the release in 2003 of the first ever draft report on the environment, and has been leading the implementation of the agency's enterprise architecture.

She also serves on the Executive Council of the Federal CIO Board and acts as both the co-chair of both the CIOs Council Architecture and Infrastructure Committee and the Federal Government-wide e-Rulemaking Committee as well.

Thank you for your attendance today, and we look forward to your testimony, ma'am.

STATEMENT OF KIMBERLY T. NELSON

Ms. NELSON. Thank you, Madam Chairwoman, and to your colleagues for the opportunity to be here today. As you are probably aware, EPA is responsible for implementing and enforcing eight

major environmental statutes that protect our land, air and water as well as the Superfund law, which includes the Emergency Planning and Community Right-to-Know Act.

Over the last three decades our laws have dramatically improved human health and the environment. Citizens are better able to boat, swim and fish in thousands of miles of formerly contaminated rivers and streams. Industrial waste areas have been cleaned up and returned to productive use, and our air is the cleanest it has been since the establishment of EPA. Total emissions of six principal air pollutants have been reduced by 54 percent from 1970 to last year. Enforcement of the environmental laws by both the Federal Government and our States has been critical to these achievements.

Assuring compliance with these statutes requires EPA to collect information from the public. As new regulations develop, so does the need for collecting information associated with implementing the regulations, which usually translates into an increase in burden.

Over the past 4 years, though, EPA's burden on the public has leveled a bit with the total burden of hours imposed by the EPA on the public between 140 and 146 million hours.

To put these numbers in perspective, which you have done when you opened up the meeting today, EPA's burden on the public is less than 2 percent of the total Federal Government burden, and we now rank sixth in terms of the Federal Government.

EPA is very proud of the culture that we have that's developed over the years in terms of reducing burden. From the outset, our programs develop regulations and information collections, seeking the least burdensome approach to collecting the information while retaining the integrity of our environmental mission.

EPA complies with the Paperwork Reduction Act by first ensuring through an independent review that the 10 standards you mentioned specified in the act are met and that the analytical processes to derive those burden estimates are sound. We ensure that the requirements for burden reduction are understood by our program offices through guidance measures and consultation, and we track all the information collection requests, and we notify the program offices of their impending need to respond in a timely manner.

The fact that we have had only two violations in the past 4½ years speaks to the success of the program that we have in place today. We ensure the practical utility of the information we collect by considering statutory requirements, industry practice, past regulatory requirements and opportunities for further reduction and reporting burden. We believe that we have taken steps to reduce the burden above and beyond what is required, including taking advantage of information technology to do so.

One of the things I am most proud of is some of the work that we are doing with our State partners, which has released the Toxic Inventory State Exchange Pilot. This pilot reduces the times and the resources expended by regulated facilities to submit annual reports to the EPA and to the United States. Beginning this year facilities in Michigan, South Carolina and in Virginia are able to use the TRI-ME software to report simultaneously to the EPA and the States via the Internet using our Central Data Exchange.

This is an important notion, because Representative, you mentioned that often there's duplication between the Federal Government and States. This is a law that requires a facility to submit two reports at the exact same time. What we are doing is putting into place that they only have to submit one. The CDX will then electronically forward the information on to the States, which enables the facilities to submit the reports only one time.

It streamlines the submittal process for the facilities and the data acceptance and processing for both the EPA and the States. The simultaneous reporting also will greatly enhance our data quality and allow the EPA and the United States to share information much earlier in a release cycle. Very soon, we are going to be pleased to have Indiana join that list of States, and we expect next year another 10 to 20 additional States.

Some of the other things we are doing that might be of interest, we have in the Toxic Release Inventory Program a modernization effort that will help increase the amount of electronic reporting and a major regulatory burden reduction effort that consists of two proposed rules that will come out this year. Those rules will eliminate duplication and possibly allow a no-significant change option, which means that a facility will be able to submit a very simplified streamlined report if they haven't had significant changes in their releases.

In our Research Conservation Recovery Act program we also have a burden of reduction effort that will include 150 regulatory reporting changes that we expect to be promulgated later this year. We expect that to significantly reduce or eliminate a lot of the recordkeeping and burden associated with the hazardous waste program. By only asking for the most critical information needed to run that hazardous waste program, we believe that we can ensure that environmental expenditures are devoted to environmental protection rather than generating unnecessary paper.

You have already mentioned our Central Data Exchange. We believe that provides that single portal through which all States, regulated facilities, tribes and others can provide data to EPA simplifying that process. Right now we have 19 different kinds of collections coming into one single portal both by States and industry using a fully electronic approach.

One of those examples that we put in place last year was our stormwater form, which reduces the burden by nearly one-third while reducing the processing time by an average of 33 days, a very significant savings by taxpayers. EPA's Small Business Division has convened an agencywide work group to identify and develop the best approaches across the agency to reduce further paperwork burden on our small businesses, and we are very much looking forward to the progress of that group as the year rolls out.

You have my testimony. I have submitted more complete information there that describes some of our compliance activity, and I look forward to answering any questions you might have.

Thank you again.

[The prepared statement of Ms. Nelson follows:]

Testimony of Kimberly T. Nelson
Assistant Administrator for the Office of Environmental Information
U.S. Environmental Protection Agency

before the
Subcommittee on Regulatory Affairs
Committee on Government Reform

United States House of Representatives

June 14, 2005

Good afternoon, Madame Chairman and Members of this Subcommittee. I am Kimberly T. Nelson, Assistant Administrator for the Office of Environmental Information, and Chief Information Officer at the Environmental Protection Agency (EPA). Thank you for the opportunity to testify about EPA's implementation of the Paperwork Reduction Act of 1995 (PRA).

As you are probably aware, EPA is responsible for implementing and enforcing eight major environmental statutes: the Clean Air Act, the Clean Water Act, the Safe Drinking Water Act, the Solid Waste Disposal Act, the Toxic Substances Control Act, the Federal Insecticide, Fungicide, and Rodenticide Act, the Pollution Prevention Act, and the Superfund law, which includes the Emergency Planning and Community Right-to-Know Act. Over the last three decades these laws have dramatically improved human health and the environment in this country. Citizens are able to boat, swim, and fish in thousands of miles of formerly contaminated rivers and streams. Industrial waste areas have been cleaned and returned to productive use. National air quality levels measured at thousands of monitoring stations across the country have shown improvements over the past 20 years for all six principal pollutants. Enforcement of the environmental laws by both the federal government and states has been critical to these achievements.

Ensuring the requirements of these statutes are met requires EPA to collect information from the public and to obtain approval from the Office of Management and Budget before doing so under the PRA. As new regulations are developed, the need for collecting information associated with implementing the regulations, translates to an increase in burden. Over the past four years, EPA burden to the public has leveled a bit, with the total burden hours imposed on the public remaining between 140 and 147 million hours for the nearly 400 collections approved by OMB. Typically EPA has about 50 new collections per year while the number of renewals of existing collections will be 136 for FY 2005 and 113 for FY 2006.

To put these numbers in perspective, EPA's burden on the public is less than 2% of the total federal government burden and ranks 6th highest of all agencies. About two-thirds of this burden is on businesses and about one-quarter on state, local or tribal governments. The remaining burden is on farms, non-profit organizations, federal facilities and individuals. Increases in burden over the past four years have been primarily due to three key water programs, *Storm Water Program phase II*, *Cooling Water Intake Structures phase II*, and *Drinking Water Security and Safety* under the *Public Health Security and Bioterrorism Preparedness and Response Act of 2002*. The number of collections and total burden hours imposed by this agency are dynamic, as new collections begin, others are completed, and existing collections require changes due to evolving program requirements. In addition to actual changes in burden, our estimates of burden for ongoing collections are sometimes revised to reflect new information. Notably, we have no burden changes due to lapses in OMB approval. (See Appendix 1, EPA Burden Changes)

EPA is proud of the burden reduction "culture" that has developed over the years, even though it does not always translate into raw burden reduction numbers. From the onset, our programs develop regulations and information collections seeking the least burdensome approach to collecting required information while retaining the integrity of our environmental mission.

I would now like to highlight some key EPA burden reduction initiatives and later describe the development and review process for Information Collection Requests that enables EPA under the PRA to collect information of practical utility to EPA programs.

Burden Reduction Initiatives

The following are some of EPA's important ongoing and planned burden reduction initiatives and activities.

Toxics Release Inventory (TRI)

In May 2004, EPA announced a Toxics Release Inventory (TRI) modernization initiative designed to increase the use of electronic reporting and data management tools. The initiative is expected to reduce the amount of time between when data are submitted and reported, as well as improve data quality. For the 2003 reporting year, ninety-three percent of the TRI reporting community used our award-winning software, TRI-Made Easy (TRI-ME) to submit their data. In addition, electronic submissions through EPA's Central Data Exchange (CDX) were up 50% in 2004 from 2003. This new electronic system provides a seamless way to transmit data from reporters to EPA over the Internet,

and in the near future, from EPA to state governments, reducing the burden for industry, states, and EPA.

In addition to this effort, EPA has initiated other efforts to reduce the burden on the reporters while still retaining important TRI data for communities. To provide burden reduction as quickly as possible, we are pursuing a two-tiered approach: a proposed rule covering more complex issues, to be proposed in August 2005, and a separate, expedited rulemaking proposed in the Federal Register on January 10, 2005, covering modifications to the two TRI Reporting Forms (R and A) that are less complex. The rule issued in January 2005 proposes simple changes, such as obtaining facility location information from existing databases within EPA instead of having the reporting community provide this information in their TRI reports. At the time of the proposal, EPA estimated that the total annual burden savings for the Reporting Forms Modification Rule will be about 45,000 hours and annual cost savings of $1.85 million.

The second, more involved rulemaking scheduled to be proposed later in 2005, will examine the potential for more significant reporting modifications with greater potential impact on reducing reporting burden. This rule will provide greater burden reduction than the amounts in the Reporting Forms Modification Rule; however, it is still too early to know the extent and specifics of burden reduction for this rule. There are several options being evaluated for inclusion in this rule such as allowing reporters to certify no significant change in reporting from the previous year. Because of the greater complexity and larger impacts potentially associated with this latter group of changes, additional analysis has been conducted to more thoroughly characterize its impact on TRI reporters and data users.

Resource Conservation and Recovery Act (RCRA) Burden Reduction Initiative

This burden reduction initiative is an EPA effort to significantly reduce or eliminate recordkeeping and reporting burden associated with the nation's hazardous waste program under the Resource Conservation and Recovery Act (RCRA). By only asking for the essential information actually needed to run the nation's hazardous waste program, we are ensuring that environmental expenditures are devoted to environmental protection rather than generating unnecessary paperwork. The Burden Reduction final rule is expected to be promulgated in December 2005 and should contain approximately 150 regulatory changes to the RCRA regulations. The projected burden reduction estimate is 79,000 to 135,000 hours with cost savings of $5.5 million to $9 million.

This final rule is a direct result of our consultations with a number of state experts on potential burden reduction ideas, as well as public input through two Notices of Data Availability and a Proposed Rulemaking. While we are still in the rulemaking process and no final decisions have been made, we would characterize the types of changes we are considering as:

- Decreased retention time for certain records;
- Allowing self-inspections for certain hazardous waste management units (including additional incentives for National Performance Track Program members)
- Changes to the requirements for document submittals;
- Reduced frequency for report submittals; and
- Clarifications to and deletions of regulatory language.

The regulatory changes contained in the Burden Reduction rule will not affect the many protections for human health and the environment that EPA has established over the years. At the same time, this rule strives to relieve stakeholders of the burden of non-essential paperwork.

Central Data Exchange Initiative

EPA's Central Data Exchange (CDX) provides a portal through which states, industry, tribes and others can provide data to EPA. It is also EPA's connection to the Environmental Information Exchange Network we are building with the states. The Exchange Network is an Internet and standards-based approach to sharing data among states, tribes and EPA that uses new technology to improve data quality, timeliness and accessibility while lowering the burden of exchanging data. CDX currently supports 19 collections from states and industry. Creating the Exchange Network and CDX as a central function (rather than program by program) are part of EPA's efforts to reduce the burden and cost of environmental data collection and exchange for the reporting community, EPA's partners and the Agency. To help understand the impact of CDX, the Agency has launched a set of Business Cases to examine the impact of automation on several of the Agency's programs. I would like to highlight the results of the conversion of the Stormwater Notice of Intent Form to an E-Form (e-NOI). The e-NOI form was developed for the construction industry to report to the NPDES (National Pollutant Discharge Elimination System) stormwater program. It is required for any construction project involving more than an acre of land where EPA remains the permitting authority (most states are authorized to implement the NPDES program and have developed similar forms). The e-NOI system is currently available in the five states, the District of

Columbia, Puerto Rico, and the U.S. territories (except the Virgin Islands), and tribal territories where EPA is the permitting authority. EPA currently receives between 1,000 and 2,000 forms each month (electronic and paper). The particular aspects of the e-NOI conversion include the following:

- The application is two pages, plus two pages of instructions
- The Agency estimates that it takes between 2 and 8 hours to gather all of the information needed and to complete the form, depending on the complexity and size of the project and the experience of the person filling out the form.
- The electronic version of the form not only makes filling out the form easier by providing detailed instructions, prompts, and links to helpful information, but also offers automated error checking to eliminate common mistakes that can cause additional delays in processing the stormwater notice.
- EPA estimates that using the electronic version of the form as compared to the paper process reduces by 30% the amount of time required to fill out the form.
- The more significant benefit is that filing the form electronically rather than in paper eliminates an average of 33 days in processing time, including additional delays caused by mistakes and incomplete forms.
- The e-NOI system also facilitates public awareness as EPA makes this information immediately available to the public on the web (www.epa.gov/npdes/noisearch).

For the five states where e-NOI is currently being used, if we assume 18,000 forms are submitted each year, each requires 2 to 8 hours to complete, and everyone eligible files

electronically, then the Agency has saved the construction industry in these five states between 10,000 to 43,000 hours per year in addition to the 33 day reduction in processing time previously mentioned.

Small Business Initiative

EPA's Small Business Division has convened an Agency-wide workgroup to address the requirement of the Small Business Paperwork Relief Act (SBPRA) to "make efforts to further reduce information collection burden for small business concerns with fewer than 25 employees." The workgroup is in the early stages of identifying and developing the best approaches for EPA to take across the Agency to further reduce the paperwork burden on these very small businesses.

Development and Review Process for Information Collection Requests

Each information collection, whether from business, states or local governments, is established through an Information Collection Request (ICR) to OMB as required under the PRA. The process for developing and reviewing ICRs has six main steps: (1) guidance from an independent PRA/ICR review team to Program Offices needing to collect information, (2) preparation of the ICR by the Program Office, (3) review of the ICR by the independent review team, (4) publication of a notice in the Federal Register seeking public comment on the information collection, (5) adjustments to the ICR by the Program Office, and (6) submission of the ICR to OMB for their review and approval (see flow charts of the detailed ICR process in Appendix 2). The independent PRA/ICR review team is within my office. Tools and resources developed by this team are available to the programs and include a handbook, quick guides, and templates. This

team works with the program offices to ensure that the ICRs conform to the PRA and in particular with the ten standards for compliance with the PRA. ICRs are initially created within our individual program offices, typically in response to statutory or regulatory requirements. In addition, a rather unique ICR database and tracking system was developed to automatically notify and offer guidance to the programs regarding key events in the renewal process to avoid potential lapses in approval or violations. The fact that EPA has had only two violations of the PRA since the beginning of FY 2000 speaks to the success of this team and the process in place.

Potential Future Burden Reduction

The agency will continue to look for opportunities to reduce its burden on the public especially as new technologies emerge and partnerships are developed.

Again, thank you for this opportunity to testify. I would be happy to answer any questions you may have.

Appendix 1

Burden Changes
(in millions of hours)[1]

Fiscal Year	Due to Agency Action	Due to Statute	Total Changes in Actual Burden	Adjustment	Change in Reported Burden
2000	1.94	0.95	2.89	6.95	9.84
2001	(0.72 combined Agency and Statute)		0.72	1.18	1.90
2002	-0.03	0.07	0.04	9.66	9.70
2003	7.39[2]	2.65[3]	10.04	-3.27	6.77
2004	2.48[4]	0.02	2.5	-7.39	-4.89

Note: There are no changes due to lapses in OMB approval

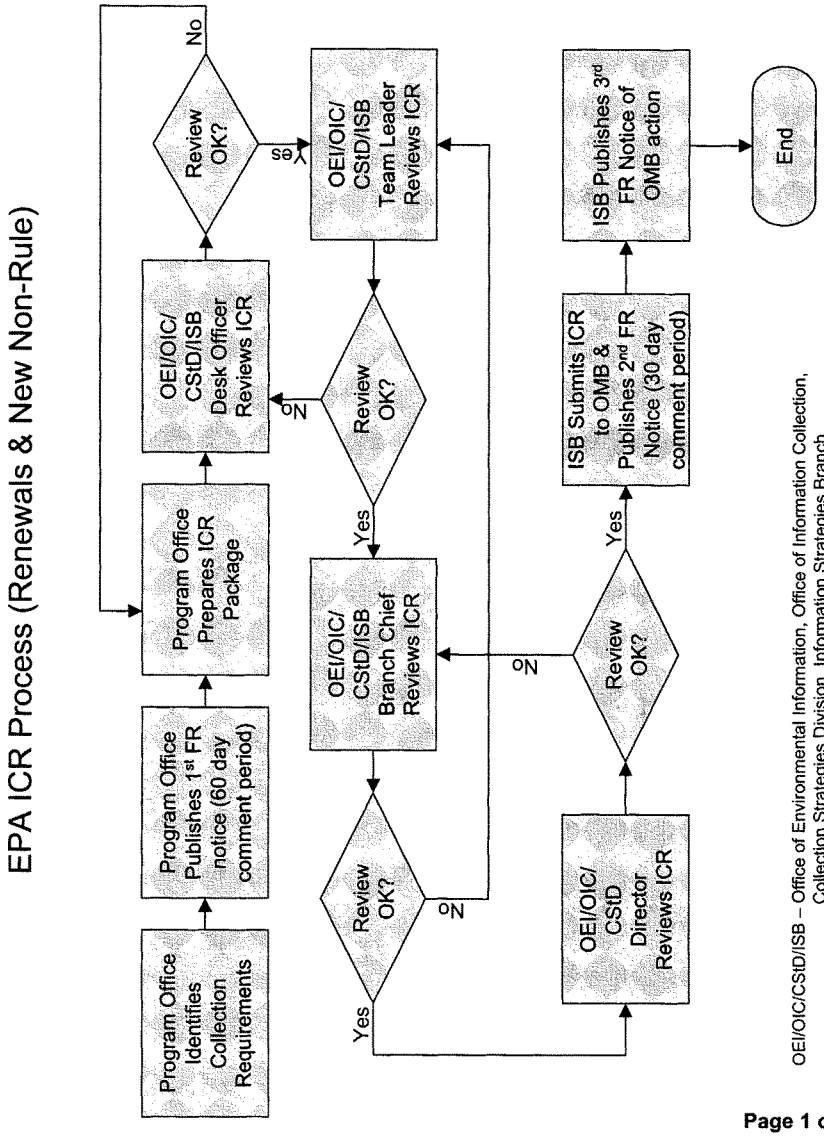
[1] Source: OMB's Information Collection Budget reports to Congress

[2] Increases are primarily due to two regulations:
- 4.9 million hours for the Office of Water NPDES Storm Water Program Phase II rule
- 1.9 million hours for the Office of Water Concentrated Animal Feeding Operations rule

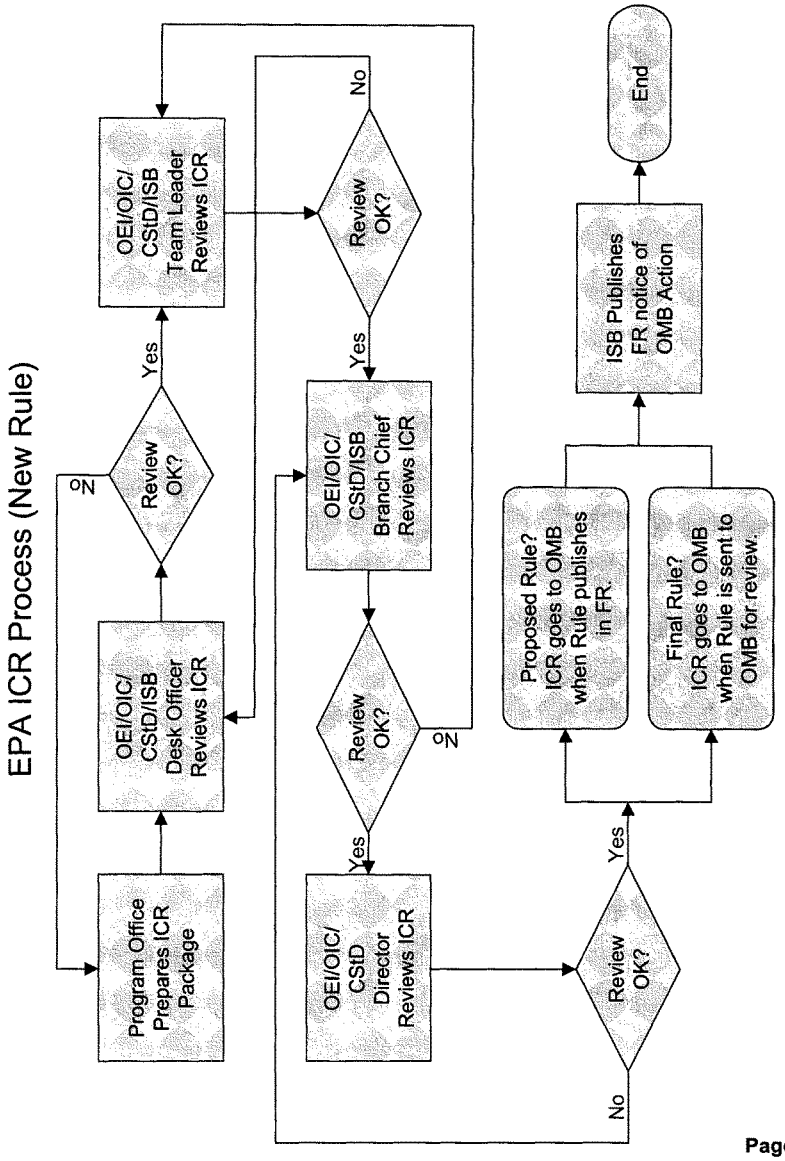
[3] Increase due to one regulation – 2.6 million hours for the Office of Water Title IV of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002: Drinking Water Security and Safety rule

[4] Increases are primarily due to two regulations:
- 1.7 million hours for the Office of Water Cooling Water Intake Structure Phase II rule
- 1.1 million hours for the Office of Air NESHAP for Industrial, Commercial, and Institutional Boilers and Process Heaters rule

Appendix 2


EPA ICR Process (Renewals & New Non-Rule)
Program Office Identifies Collection Requirements
Program Office Publishes 1st FR notice (60 day comment period)
Program Office Prepares ICR Package
OEI/OIC/ CStD/ISB Desk Officer Reviews ICR
Review OK?
No
Yes
OEI/OIC/ CStD/ISB Team Leader Reviews ICR
Review OK?
No
Yes
OEI/OIC/ CStD/ISB Branch Chief Reviews ICR
Review OK?
No
Yes
OEI/OIC/ CStD Director Reviews ICR
Review OK?
No
Yes
ISB Submits ICR to OMB & Publishes 2nd FR Notice (30 day comment period)
ISB Publishes 3rd FR Notice of OMB action
End
OEI/OIC/CStD/ISB – Office of Environmental Information, Office of Information Collection, Collection Strategies Division, Information Strategies Branch

Appendix 2



OEI/OIC/CStD/ISB – Office of Environmental Information, Office of Information Collection, Collection Strategies Division, Information Strategies Branch

Mrs. MILLER. Thank you so much. Our next witness is Daniel Matthews. He is the Chief Information Officer of the Department of Transportation, was appointed to his position in March 2003. As CIO, Mr. Matthews is responsible for providing advice and guidance on how to best use information technology resources and ensuring that the Department of Transportation investments in technology are sound ones.

CIO Matthews is a veteran of the U.S. Air Force, having served from 1971 to 1975, and worked in logistics and computers there. We certainly look forward to your testimony.

You have the floor, sir.

STATEMENT OF DANIEL P. MATTHEWS

Mr. MATTHEWS. Thank you, Madam Chairwoman. Madam Chairwoman and members of the subcommittee, thank you for the opportunity to appear today to discuss the Department of Transportation's compliance with the Paperwork Reduction Act [PRA].

DOT is improving the information collection and management processes, but we also face some challenges. To put things in context, as of May 31, 2005, the Department of Transportation had 376 approved active information collections which totaled over 253 million burden hours.

Of the DOT's information collections, one, truck driver's hours of service account for 65 percent, 160 million hours, of DOT's public burden hours. The remaining 366 information collections account for 35 percent.

DOT's process requires the program officials with the Operating Administrations first validate the need for an information collection in response to a new requirement, a public law or a new rule. If the Operating Administration or the DOT/PRA compliance officer determines that the collection is overly burdensome on the public or does not comply with any of the 10 PRA standards, the information collection request package is returned to the originator with suggestions for more complete compliance with the PRA. What is important about the process is that it allows DOT at various checkpoints to determine the need for and the practical utility of the information it proposes to collect.

It is in everyone's interest that DOT ensure that all of our information collection activities impose the minimum possible burden on the public and that the information gathered is of the utmost utility. It is in the best interest of the Operating Administrations to keep their information-gathering burdens to a minimum by ensuring that the program office is collecting only the information necessary for the proper performance of the program function and then only to the frequency that is needed.

Also, the Department works with the Operating Administrations to ensure that the information gathered satisfies the program's needs and the collection methods used are sound and appropriate.

As to what steps DOT is taking to reduce the reporting burden, I first note that the majority of the Department's information collections are in response to enacted laws that are intended to ensure the safety of the traveling public. As a result, the reality of making annual percentage decreases and collection burden hours is a challenging task.

For example, as I noted earlier, one collection alone imposes 160 million hours, 65 percent of DOT's total public burden hours. This collection is the Federal Motor Carrier Safety Administration Hours of Service Rule, a rule which has been in effect since the late 1930's and has been revised and issued in final form several times. The Hours of Service regulations require certain commercial motor vehicle drivers to prepare and maintain a record of duty status. DOT expects to publish a newly revised final rule no later than September 30, 2005.

But beyond the Hours of Service collection, and considering the other 93 million burden hours, DOT is taking steps to reduce that burden above and beyond what is required by the law.

Agencies such as the Federal Railroad Administration are demonstrating that information technology can and does reduce burden. For instance, FRA grants waivers to railroads to capture and retain hours of duty data in an electronic form. Converting paper to electronic records has been a longstanding and important initiative to improve the performance of this vital safety program while reducing the burden on affected railroads. This not only saves the railroads paper and storage costs, but it also serves to reduce the paperwork burden which to date has saved over 772,000 hours.

Finally, DOT has initiated a cross-agency approach to institutionalize substantive burden reductions. DOT is focusing on several critical strategies to achieve reductions. Improving the efficiency of information collections, reducing the burden per response, promoting where feasible the use of electronic reporting, making adjustments where possible to the frequency of the collection and creating partnerships internal to DOT and with other Federal agencies to ensure there is no duplicative reporting and to maximize data sharing.

Again, I thank you for the opportunity to comment on this important topic, and I look forward to answering any questions that you may have.

Thank you, Madam Chairwoman.

[The prepared statement of Mr. Matthews follows:]

STATEMENT OF DANIEL P. MATTHEWS
CHIEF INFORMATION OFFICER
U.S. DEPARTMENT OF TRANSPORTATION
BEFORE THE
COMMITTEE ON GOVERNMENT REFORM
SUBCOMMITTEE ON REGULATORY AFFAIRS
U.S. HOUSE OF REPRESENTATIVES

JUNE 14, 2005

Madam Chairperson and members of the Subcommittee, thank you for the opportunity to appear today to discuss the Department of Transportation's (DOT) compliance with the Paperwork Reduction Act (PRA) and DOT's efforts to reduce the information collection burden on our citizens.

As the Department's Chief Information Officer (CIO), I oversee DOT's information technology (IT) investment guidance, cyber security program and have operational responsibility for the Departmental network and communications infrastructure. I also serve as the vice-chair of the Federal Chief Information Officers Council. My role established through the PRA is to develop information collection policies and management strategy, and to provide advice and assistance within the agency on these matters.

DOT uses the information collection process as part of its regulatory responsibilities and to ultimately fulfill the agency's strategic objectives, including transportation safety and improving mobility. DOT is improving the information collection and management processes, but DOT also faces some challenges.

To put things into context, as of May 31, 2005 DOT has 367 approved, active information collections, totaling 253,305,417 burden hours, encompassing 3,787,209,858 responses. Of the 367 information collections, one – addressing truck driver's hours of service – accounts for 65% (160 million hours) of DOT's total public burden hours. The remaining 366 information collection activities account for thirty-five percent (35%). Overall, DOT currently ranks third among Federal agencies in collection burden hours placed on the public, following the Department of Treasury and the Department of Health and Human Services.

DOT PAPERWORK REDUCTION ACT COMPLIANCE PROCESS

The Information Collection Request (ICR) process requires agencies to provide detailed justification and supporting explanations of how information will be collected and why each information collection is essential to an agency's mission. Additionally, the ICR process links collections of data to governing federal rules or regulations, and provides an estimate of the burden imposed on the public. OMB then weighs the agency's business need for the information against the cost to citizens or businesses.

DOT complies with the PRA through an established compliance process meant to ensure that the standards outlined in the PRA are met, and at the same time minimize the burden imposed on the public. Individual program offices within the Department officially initiate all information collection activities. The impetus for these collections stems from a variety of requirements, including agency rule-making activities, new public laws, or self-determined needs of the program offices. The general chronology for

preparing an ICR submission varies from organization to organization depending on the number of reviews and other factors. The first step in DOT's process requires that program officials within the agency's Operating Administrations (OA) first validate the need for an information collection in response to a new requirement, such as a new rule or public law. The OA program official prepares and submits a 60-day Federal Register notice, giving the public an opportunity to comment of the ICR. The OA program official then generates an ICR package which addresses the PRA standards, and includes the supporting statement, background materials and any forms associated with the ICR. If the program official receives comments from the 60-day Federal Register notice, the program official may revise the ICR if warrant. The ICR package is reviewed and approved by the OA program official because the OA program official receives data from other individuals within their operating administration to complete the ICR package. Once the ICR package has been approved by the OA program official, the ICR is then submitted to the OA PRA Coordinator for additional review and approval. After the ICR is approved by the OA PRA Coordinator, the OA program office prepares and submits their 30-day Federal Register notice informing the public the ICR is being submitted to OMB for review/approval. The OA PRA Coordinator works with the OA program official conducting the collection to ensure the PRA standards are being addressed. For example, the PRA Coordinator ensures that the information gathered will achieve the goals stated by the Program Office and the collection methods used are sound and appropriate. If the OA PRA Coordinator does not find that all PRA standards are being met, the ICR will be returned to the OA Program Official for more complete compliance with the ten PRA standards prior to submission to OMB.

If the OA PRA Coordinator approves an ICR and determines that the collection involves statistical methods, the ICR must also be approved by a Transportation Statistician within DOT's Research and Innovative Technologies Administration (RITA) prior to submission to DOT's PRA Clearance Officer in the DOT Office of the Chief Information Officer. Upon receipt of the ICR by the DOT PRA Clearance Officer, the package is again reviewed for compliance with the PRA standards. If the DOT PRA Clearance Officer determines that there are inconsistencies, inaccuracies or non-compliance with the PRA standards, the ICR is returned to the OA PRA Coordinator so that the collection may be re-worked. For example, if the program office does not provide an adequate explanation of the calculation of the proposed burden hours, the ICR would be rejected. If the PRA Clearance Officer determines that the collection is overly burdensome on the public, the ICR will be returned with suggestions for changes to reduce the burden. Once the DOT PRA Clearance Officer determines that the ICR is acceptable, the package is electronically submitted to the Office of Management and Budget (OMB) for processing and review.

DOT Operating Administrations ICRs have been turned down in DOT's process. When collections are turned down it may be because they duplicate existing collections or did not meet the PRA threshold for requiring OMB-approval. With respect to duplicate requirements, these are normally consolidated into existing collections and then submitted to OMB for approval.

What is important about the process is that it allows DOT, at various checkpoints, to determine the need for and the practical utility of the information it proposes to collect. It is in everyone's interest that DOT ensures that all our information collection activities impose the minimum possible burden on the public and that the information gathered is of the utmost utility.

DOT INFORMATION COLLECTIONS AND BURDEN HOURS

The scope of the information to be collected and its frequency is dictated by the needs of a particular program. Some programs may have operational requirements that require near real-time collection of information in order to be effective, while other programs may be managed effectively with less frequent reporting. Some examples of reporting frequency include the following:

- At the National Highway Traffic Safety Administration (NHTSA), "the odometer collection" requires automotive dealers to issue odometer statements to customers at the time of purchase. Most other NHTSA collections are collected annually.

- The Office of the Secretary of Transportation's (OST) information collection for the Essential Air Service program (2106-0044 Air Carriers' Claims for Subsidy Payments) includes claims, typically filed monthly, by air carriers seeking subsidy payments for the services provided. Although the authorization granted, particularly in U.S.C. 41733(d), gives the Secretary of Transportation discretion in deciding how to make payments (which translates directly into how

often to require/permit carriers to submit their claims), communications from the air carriers suggest that none wish to be paid less frequently than monthly. Indeed, carriers have from time to time sought payment more frequently (typically every two weeks).

The reporting frequency can be changed, which minimizes the burden, but still enables DOT to accomplish program objectives. For example, when DOT revised the reporting form for FAA, Federal Highway Administration and Federal Transit Administration recipients on disadvantaged business enterprise (DBE) achievements, DOT reduced the reporting frequency from quarterly to semiannually or annually depending on the DOT Operating Administration's requirements.

From a historical perspective, since the beginning of FY2000, DOT's total burden has fluctuated due to (1) adjustments, (2) agency actions, (3) changes in statute, and (4) lapses in OMB approval. An accounting of burden changes as reported annually to OMB since the beginning of FY2000 is provided in Table 1:

Table 1

DOT Annual Changes in Burden Hours 2000-2004 (in millions)

Year	Program Changes in Burden Due to Statute "A"	Program Changes in Burden Due to Lapses in OMB Approval "B"	Program Changes in Burden Due to Agency Action (Discretionary Changes) "C"	Total Program Changes in Burden (A+B+C=D) "D"	Changes in Burden Due to Adjustments "E"	Total Burden Hours (Millions) Prior year burden hours plus current year burden changes and adjustments=current total "F"
FY1999	-	-	-	-	-	140
FY2000	.05	28.32	(56.65)	(28.28)	5.88	117.60
FY2001	1.07	(42.39)**	0	(41.32)	5.11	80.34*
FY2002	.78	0.00	163.24***	163.32	1.2	245
FY2003	2.85	(1.37)	4.92	6.45	(1.48)	249.69
FY2004	1.21	1.23	(0.47)	1.97	(0.32)	250.79

*Due to a PRA violation, the program change total for FY2001 includes a reduction of 42,464,327 hours. DOT inadvertently allowed OMB's approval of a Federal Motor Carrier Safety Administration, Drivers Record of Duty Status, to expire on September 30, 2001. DOT continued to use this collection in violation of the PRA until it obtained a reinstatement of OMB's approval on March 4, 2002.

**DOT data unavailable. Numbers reported are from OMB's FY2002 Report to Congress.

***This total reflects for the most part an increase due to a reinstatement of an ICR which included a program change and an adjustment in burden hours –Drivers Record of Duty Status, amounting to 161,364,492 burden hours.

The significant FY2002 change reflected in the table above was due to several factors: 1) in FY2001 DOT's information collection 2126-0001 Driver's Record of Duty Status (RODS) went into a violation stage at the time of renewal, and 2) there was an adjustment of 118,900,165 burden hours, increasing the total burden hours for this collection to 161,364,492 at the time of OMB reinstatement of the collection on March 4, 2002. The adjustment was due to changes in the estimates of time for the drivers to complete a RODS and the time necessary for the motor carriers to review and file the RODS.

DOT Paperwork Reduction Act Violations

OMB rarely rejects DOT ICR packages. However, OMB in the past has returned DOT's ICRs for various reasons, including: a determination that the agency should further review public comments received; requests for additional details about the collection's methodology; premature submission prior to the publication of a Final Rule; or a determination that the proposed information collection is redundant of another already approved collection. Also, OMB will sometimes approve an ICR package with a "term of clearance" allowing the collection to take place, but either requiring the agency to supply more information or granting the collection a shorter approval period than requested.

Failure to comply with the requirements of the Act is a violation. If an agency's violation is not resolved in a timely manner, the issue is raised in OMB's management chain and can result in official Departmental reprimands and may have budget implications. DOT's process is that if an unapproved collection has already occurred and it is ongoing in nature, the program official should bring the violation to the attention of the DOT PRA Clearance Officer and work to resolve the violation as soon as possible. If an unapproved collection is conducted and it is a one-time collection, there is no further action that an agency can take to rectify the violation in the short term. Other violations include when an agency does not submit an information collection to OMB on a timely basis or request for renewal of OMB approval under the PRA.

Annually, DOT must submit a summary of information collection activity for the previous fiscal year and a forecast for the coming fiscal year. This summary must also include a description of each violation and the action taken, if any, to resolve the issue.

DOT's past and current collections in violation of the PRA dating back to FY2000 are provided in Table 2:

Table 2

DOT Collections in Violation of the Paperwork Reduction Act 2000-2004

Year of Violation	OMB Number	Information Collection Title	Description of the violation	Explanation of Correction
2000	2105-543	Consumer Compliant forms	Forms placed on a web page without OMB approval.	The Department's CIO and OIG worked with OMB to resolve the violation.
2000	2126-0001	Driver's Record of Duty Status	Failed to report a segment of the regulated population.	Requested and obtained approval, increasing the number of respondents, burden hours and burden costs.
2000	2126-0004	Driver Qualification Files	Failed to report a segment of the regulated population.	Requested and obtained approval, increasing the number of respondents, burden hours and burden costs.
2000	2133-0532	Evaluation of the Military Sealift Program (MSP) and the Voluntary Intermodal Sealift Agreement (VISA)	Requested public comments through solicitation of a Federal Register Notice on April 18, 2000 without OMB approval	Agency requested an emergency approval from OMB. The information collection did not warrant an emergency approval and the agency did not want to process the collection through the normal approval procedures. Maritime withdrew their submission and discontinued information collection activities.
2001	2139-0002	Motor Carrier Quarterly Report	Forms placed on a web page without OMB approval.	The Department's CIO and OIG worked with OMB to resolve the violation.
2001	2139-0004	Annual Report of Class 1 Motor Carriers of Property	Collection form had not been approved by OMB.	Collection form faxed to OMB on Jan. 30, 2002 and approved.

2001	2105-0531	Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations	Collection form had not been approved by OMB.	Collection form faxed to OMB on Jan. 30, 2002 and approved.
2001	2115-0015	Shipping Articles	Lapse of OMB approval, expired 11/30/2000.	Submitted ICR to OMB and reinstated 3/30/01
2001	2115-0073	Alternative Compliance for International and Inland Navigation Rules -- 33 CFR Parts 81 and 89	Lapse of OMB approval, expired 07/31/2001.	Submitted ICR to OMB and reinstated 9/17/2001.
2001	2115-0120	Oil and Hazardous Materials Transfer Procedures	Lapse of OMB approval, expired 09/30/2001	Submitted ICR to OMB and reinstated 11/14/2001
2001	2115-0580	Outer Continental Shelf Activities--Emergency Evacuation Plans for Manned OCS Facilities; Design & Plan Approvals; In-service Inspection & Letter of Compliance	Lapse of OMB approval, expired 02/28/2001.	Submitted ICR to OMB and reinstated 4/12/2001.
2001	2126-0001	Hours of Service of Driver Regulations	Lapse of OMB approval, expired 9/30/2001.	Submitted ICR to OMB and reinstated 3/4/2002.

2001	2126-0018	Request for Revocation of Authority Granted	Lapse of OMB approval, expired 01/31/2001.	Submitted ICR to OMB and reinstated 4/12/2001.
2001	2127-0008	Consumer Complaint/Recall Audit Information	Lapse of OMB approval, expired 09/30/2001.	Submitted ICR to OMB and reinstated 2/20/2002.
2001	2127-0043	Manufacturers' Identification -- 49 CFR Part 566	Lapse of OMB approval, expired 09/30/2001.	Submitted ICR to OMB and reinstated 2/7/2002.
2001	2127-0044	Names and Addresses of First Purchasers of Motor Vehicles	Lapse of OMB approval, expired 09/30/2001.	Submitted ICR to OMB and reinstated 2/7/2002.
2001	2127-0045	Petitions for Inconsequentiality -- 49 CFR 556	Lapse of OMB approval, expired 09/30/2001	Submitted ICR to OMB and reinstated 2/7/2002.
2001	2127-0052	Brake Hose Manufacturers Identification	Lapse of OMB approval, expired 09/30/2001.	Submitted ICR to OMB and reinstated 11/26/2001.
2001	2127-0576	Voluntary Child Safety Seat Registration Form	Lapse of OMB approval, expired 09/30/2001.	Submitted ICR to OMB and reinstated 01/22/2002.
2003	2125-0034	Certification of Enforcement of Vehicle Size and Weight Laws	Lapse of OMB approval, expired 5/31/2003.	Submitted ICR to OMB and reinstated 7/29/2003.
2003	2125-0586	State Right of Way Operations Manuals	Lapse of OMB approval, expired 8/31/2003.	Submitted ICR to OMB and reinstated 3/9/2004.
2003	2127-0004	Defect and Noncompliance Notification	Lapse of OMB approval, expired 1/30/2003.	Submitted ICR to OMB and reinstated 2/27/2003.
2003	2127-0511	49CFR Part 571.213, Child Restraint Systems	Lapse of OMB approval, expired 9/30/2003	Submitted ICR to OMB and reinstated 3/9/2004
2003	2127-0635	Exemption from Make Inoperative	Agency was collecting information without OMB approval.	ICR to OMB for an approval number, approved 10/23/2003

		Prohibition		
2003	2130-0004	Railroad Locomotive Safety Standards and Event Recorders	Lapse of OMB approval, expired 9/30/2003	Submitted ICR to OMB and reinstated 9/23/2004
2003	2130-0526	Control of Alcohol and Drug Use in Railroad Operations	Lapse of OMB approval, expired 7/31/2003.	Submitted ICR to OMB and reinstated 2/24/2004.
2003	2139-0003	Class I Quarterly and Annual Report of Motor Carriers of Passengers	Lapse of OMB approval, expired 2/28/2003	Submitted ICR to OMB and reinstated 6/16/2003.
2004	2106-0030	Aircraft Accident Liability Insurance	Lapse of OMB approval, expired 2/29/2004.	Submitted ICR to OMB and reinstated 9/28/2004.
2004	2120-0018	Certification Procedures for Product and Parts FAR 21	Lapse of OMB approval, expired 7/31/2004.	Submitted ICR to OMB and reinstated 9/29/2004.
2004	2120-0620	Special Federal Aviation Regulation No. 71	Lapse of OMB approval, expired 1/31/2004	Submitted ICR to OMB and reinstated 1/21/2005.
2004	2125-0010	Bid Price Data	Lapse of OMB approval, expired 6/30/2004	Submitted ICR to OMB and reinstated 9/28/2004.
2004	2125-0019	Federal-Aid highway Construction Equal Employment Opportunity	Lapse of OMB approval, expired 1/31/2004.	Submitted ICR to OMB and reinstated 4/23/2004
2004	2125-0519	Developing and Recording Costs for Utility Adjustments	Lapse of OMB approval, expired 1/31/2004.	Submitted ICR to OMB and reinstated 12/16/2004.
2004	2125-0521	Developing and Recording Costs for	Lapse of OMB approval, expired 1/31/2004.	Submitted ICR to OMB and reinstated 4/23/2004.

		Railroad Adjustments		
2004	2125-0522	Utility Use and Occupancy Agreements	Lapse of OMB approval, expired 1/31/2004.	Submitted ICR to OMB and reinstated 12/15/2004.
2004	2125-0529	Preparation and Execution of the Project Agreement and Modifications	Lapse of OMB approval, expired 6/30/2004.	Submitted ICR to OMB and reinstated 9/28/2004.
2004	2125-0579	Drug Offenders' Drivers' License Suspension Certification	Lapse of OMB approval, expired 6/30/2004	Submitted ICR to OMB and reinstated 9/28/2004.
2004	2125-0586	State Right-of-Way Operations Manuals	Lapse of OMB approval, expired 8/31/2003.	Submitted ICR to OMB and reinstated 3/9/2004.
2004	2126-0011	Commercial Driver Licensing and Testing Standards	Lapse of OMB approval, expired 1/31/2004.	Submitted ICR to OMB and reinstated 4/23/2004.
2004	2127-0511	Child Restraint System	Lapse of OMB approval, expired 9/30/2003.	Submitted ICR to OMB and reinstated 3/9/2004.
2004	2130-0526	Control of Alcohol and Drug Use in Railroad Operations	Lapse of OMB approval, expired 7/31/2003.	Submitted ICR to OMB and reinstated 2/24/2004.

As reflected in the Table 2, DOT quickly addresses all violations. It should be noted that at this time, DOT is only aware of two PRA violation. Both operating administrations completed the study used for the violations and these violations will be reported in the FY2006 ICB report. On a broader scale, DOT continues to educate DOT staff on the PRA and the information collection process.

FUTURE COLLECTION PROJECTIONS

In looking to the future, DOT PRA officials continually review pending rulemaking activities to determine which involve a public collection burden. Of the eighty-seven significant rulemakings currently reported by DOT's Office of the General Counsel, DOT's PRA Officers have identified seven rulemakings that may require OMB review for PRA approval. According to DOT's Information Collection Tracking System report of current collections, DOT has approximately 175 collections that are due to expire within FY05 and FY06. DOT expects to renew most, if not all, of these collections.

DOT BURDEN REDUCTION INITIATIVES

As to what steps DOT is taking to reduce the reporting burden, I first note that the majority of the Department's information collections are in response to enacted laws that are intended to ensure the safety of the traveling public. As a result, the reality of making annual percentage decreases in collection burden hours is a challenging task.

DOT works diligently to minimize public burden through the review process of each new collection as described earlier, but has conducted a number of initiatives over the past four years to reduce information collection burdens to the lowest possible level. Table 3 below shows burden reduction endeavors initiated since FY 2001:

Table 3

DOT Burden Reduction Initiatives 2001-2005				
Year	**OMB Control Number**	**DOT Operating Administration**	**Title of Information Collection**	**Estimated Burden Reduction (Hours)**
2001	2130-0005	Federal Railroad Administration (FRA)	Hours of Service Regulations	2,666,666
2001	2130-0004	FRA	Railroad Locomotive Safety Standards and Event Recorders	182,000
2001	2138-0040	Research and Innovative Technology Administration (RITA)/Bureau of Transportation Statistics (BTS)	Traffic Reporting System	15,084
2001	2120-0001	Federal Aviation Administration (FAA)	Notice of Proposed Construction or Alteration and Notice of Actual Construction or Alteration and Project Status Report	15,500
2001	2120-0021	FAA	Certification: Pilots and Flight Instructors	350
2001	2125-0501	Federal Highway Administration (FHWA)	National Bridge Inventory (NBI) system	540,000
2001	2132-0008	Federal Transit Administration (FTA)	National Transit Database	238,140
2002	2110-0002	Transportation Security Administration (TSA)	Aviation Security Infrastructure Fee	31,200
2002	2110-0009	TSA	Certification of Screening Companies 14 CFR Part 111	58,643
2002	2115-0514	United States Coast Guard (USCG)	Continuous Discharge Book, Revised Merchant Mariner Application, Physical Report, New Sea	61,969

			Service, Chemical Testing and Entry Level Physical Forms.	
2002	2120-0075	FAA	Airport Security, 14 CFR Part 107	103,587
2002	2120-0673	FAA	Criminal History Records Checks 14 CFR Parts 107 and 108	123,471
2002	2130-0544	FRA	Passenger Equipment Safety Standards	14,780
2002	2132-0502	FTA	49 U.S.C. Sections 5309 and 5307 Capital Assistance	319,134
2003	2105-0548	Office of the Secretary (OST)	Procedures for Compensation of Air Carriers	43,164
2003	2125-0590	FHWA	Customer Satisfaction Surveys	10,678
2003	2126-0001	FMCSA	Driver's Records of Duty Status	1,824,000
2003	2137-0034	Pipeline and Hazardous Materials Safety Administration (PHSMA)	Hazardous Materials Shipping Papers & Emergency Response Information	361,111
2004	2126-0012	FMCSA	Controlled Substances and Alcohol Use and Testing	573,490
2005	2126-0013; 2126-0016; and 2126-0019	FMCSA	Unified Registration System	153,465
2005	2125-0032	FHWA	Fuels and FASH System	4,000
2005	2105-0517	OST	Transportation Acquisition Regulation (TAR)	30,601

One example of how DOT is taking steps to reduce burden above and beyond what is required by the law is an initiative found in Table 3, the Federal Railroad Administration's (FRA) Hours of Service collection. Agencies such as FRA are demonstrating that information technology can and does reduce burden. For instance, FRA grants waivers to railroads to

capture and retain hours of duty data in an electronic form. Converting paper to electronic records has been a longstanding and important initiative to improve the performance of this vital safety program while reducing the burden on affected railroads. This not only saves the railroads paper and storage costs, but also serves to reduce the paperwork burden, which to date has saved over 772 thousand hours.

INFORMATION COLLECTION CHALLENGE

Even in light of the improvements and reductions described above, the bulk of DOT's information collection burden is represented by a single information collection activity which imposes 65% (160 million hours) of DOT's total public burden hours. This collection is the FMCSA's "Hours of Service Rule," a rule which has been in effect since the late 1930's and has been revised and issued in final form several times. The Hours of Service (HOS) regulations require certain Commercial Motor Vehicle (CMV) drivers to prepare and maintain a record of duty status. For FY2005, DOT expects to publish a Final Rule no later than September 30, 2005. Two additional rules – HOS Supporting Documents and Electronic On-board Recorders – are also actively being developed, with many provisions ultimately subject to public notice and comment. These last two rules noted above are slated to be published in 2006.

CONCLUSION

DOT participates in the government-wide Business Gateway initiative that uses automation to reduce the burden of information collection. Goals for this initiative are to reduce the government paperwork burden for citizens and businesses with special attention to regulatory paperwork; and to

establish a proven methodology by which the government can harmonize and streamline data collection and forms. Expected outcomes by participating agencies will be to realize administrative efficiencies that will help further reduce information collection burdens DOT imposes on the public.

DOT is also working to improve the overall process of PRA information collection review and approval. Additionally, DOT has worked over the last three years to improve its Information Collection Tracking System (ICTS) used to process ICRs. The system has recently been recognized by several Federal agencies participating in the Federal Information Collection Tracking System workgroup as a management system they (the agencies) would also like to use. DOT is collaborating with these agencies to achieve this goal.

As my testimony describes, DOT has in place a process for PRA compliance and has had some success in reducing burden hours in some programs. However, DOT also faces significant challenges. Given the size of the collection burdens DOT imposes on the American public, additional steps are required to successfully reduce the burden.

I will work with the senior leadership in DOT to instill a sense of urgency to minimize the burden on the citizens and reduce violations. DOT's objective must be to have no PRA violations. This responsibility does not fall solely on agency PRA collection officers and coordinators, but is an effort best addressed through a variety of mechanisms, including the rulemaking process, training of program staff on PRA requirements and objectives,

stronger program management leadership who can help ensure that burdens are kept to a minimum, and ultimately making the best use of new information technologies. The Departmental Investment Review Board (IRB) must establish the optimal Information Technology (IT) portfolio that accomplishes and further supports DOT's mission, but also presents opportunities to reduce paperwork burdens imposed on the public. DOT has initiated a cross-agency approach to institutionalize substantive burden reduction among its largest collections. This will be achieved through: an analysis of all information collections by the DOT CIO Council; the identification of reduction opportunities and the time period when those reductions may occur (such as when collections are up for renewal); and the tracking of progress against stated objectives. DOT will focus on several critical strategies to achieve reductions: improving the efficiency of information collections; reducing the burden per response; promoting where feasible the use of electronic reporting; making adjustments where possible to the frequency of the collection; and creating partnerships internal to DOT and with other Federal agencies to ensure there is no duplicative reporting and to maximize data sharing.

In short, DOT is aware of the burden and is always looking for ways to reduce the burden and cost to industry while balancing its mission to ensure safety remains our #1 priority.

Again, I thank you for the opportunity to comment on this important topic and I look forward to answering any questions that you may have.

Mrs. MILLER. Thank you, Mr. Matthews.

Our next witness is Mr. Pizzella. Am I pronouncing it correctly?

Mr. PIZZELLA. Pizzella.

Mrs. MILLER. Pizzella. He was confirmed as Assistant Secretary for Administration and Management by the U.S. Department of Labor on May 9, 2001. As Assistant Secretary of Labor, Mr. Pizzella serves as the principal adviser to the Secretary of Labor in the Administration and Management Programs of the Department and as the Department's Chief Information Officer and Chief Human Capital Officer. He is a native of New Rochelle, NY.

Mr. Pizzella has served in both the private and the public sectors. He is the former Policy Coordinator for the General Services Administration, and he was also selected in 2004 as 1 of the 25 top doers, dreamers and drivers by Government Technology Magazine.

We did a little research on you. We thank you for your presence here today and look forward to your testimony.

STATEMENT OF PATRICK PIZZELLA

Mr. PIZZELLA. Thank you. Good afternoon, Chairwoman Miller, Ranking Member Lynch and Congresswoman Brown-Waite. Thank you for inviting me here to discuss the Department's efforts to reduce paperwork burdens through compliance with the Paperwork Reduction Act and through burden reduction initiatives beyond what is statutorily required of the Department. I appreciate this opportunity to discuss the Department's responsibilities under PRA and our efforts to provide relief and fair treatment to all business owners and individuals.

The Department is committed to reducing the burden that America's businesses and individuals deal with every day as a result of Federal regulations and paperwork. The PRA is an important tool for the Department in all Federal agencies to use in reducing unnecessary burdens on the American public.

In carrying out the Department's broad and varied mission, the Department of Labor enforces more than 180 Federal laws. In administering these laws and related programs, the Department actively seeks to minimize the paperwork burden it imposes on the American public while maintaining its mission and fulfilling its statutory and programmatic responsibility.

The Department has also successfully adopted the Office of Management and Budget's zero tolerance policy for PRA violations, and this is something we are very proud of because this is an indication of the responsible and fair administration of the PRA and because it's also just good customer service.

Following the PRA requirements for review and approval provides a regular fresh look at our information collection practices, helping us keep them up to date and relevant. The Department remains committed to the goals of the PRA and continues to explore and implement new ways to reduce burden hours imposed on the public.

To this end, since fiscal year 2002 the Department has submitted 12 burden reduction initiatives to OMB, several of which have already resulted in a reduction of approximately 221,000 burden hours. These initiatives involve three main burden reduction strategies: One, a comprehensive evaluation and updating of regulation;

two, streamlined information collections and, third, a deployment of automated collection techniques.

The Department takes the PRA very seriously. The PRA requires each agency head to designate a senior official to carry out the responsibilities of the agency under the PRA. At the Department, as the Chief Information Officer, I report directly to the Secretary and am responsible for ensuring agency compliance with the PRA.

Accordingly, as CIO, I established an independent process to evaluate proposed information collections and issued internal policy for implementing the Department's information collection management program. Through its vigorous internal review process, the Department aggressively controls the amount of burden it imposes on the American public and ensures practical utility of its information collections with five main strategies in mind: The review of rulemaking actions; assessing the use of technology; routine review of information collection activities; burden reduction initiatives; and, finally, business public consultation.

Through a rigorous internal review process and aggressive burden reduction strategies, the Department of Labor is committed to reducing the paperwork burden on the American public. In addition, the Department has a very strong program of compliance assistance to help all businesses comply with those requirements we place on them.

That concludes my prepared testimony. I look forward to answering your questions.

[The prepared statement of Mr. Pizzella follows:]

Statement of Patrick Pizzella
Assistant Secretary for Administration and Management and
Chief Information Officer
U.S. Department of Labor
Before the Government Reform Subcommittee on Regulatory Affairs
U.S. House of Representatives
June 14, 2005

Good afternoon, Chairman Miller, Ranking Member Lynch, and Members of the Subcommittee. I am Patrick Pizzella, Assistant Secretary for Administration and Management, and Chief Information Officer for the Department of Labor (DOL). Thank you for inviting me here today to discuss DOL's efforts to reduce paperwork burdens through compliance with the Paperwork Reduction Act (PRA) and through burden reduction initiatives beyond what is statutorily required of the Department. I appreciate this opportunity to discuss DOL's responsibilities under the PRA, and our efforts to provide relief and fair treatment to all business owners and individuals.

DOL is committed to reducing the burdens that America's businesses and individuals deal with every day as a result of Federal regulations and paperwork. The Paperwork Reduction Act is an important tool for DOL, and all federal agencies, to use in reducing unnecessary burdens on the American public.

In carrying out DOL's broad and varied mission, the Department enforces more than 180 federal laws.

In administering these laws and related programs, the Department actively seeks to minimize the paperwork burden it imposes on the American public while maintaining its mission and fulfilling its statutory and programmatic responsibilities.

The Department has also successfully adopted Office of Management and Budget's (OMB) "zero tolerance" policy for PRA violations[1] and has not been cited for a PRA violation for three years.

Achieving the aforementioned results is no small task. DOL maintains approximately 400 active information collections in its inventory, which have a total burden of 166 million hours. Furthermore, this fiscal year the OCIO has reviewed over 100 information collection requests and on average reviews between 130 to 140 annually.

The Department remains committed to the goals of the PRA and continues to explore and implement new ways to reduce burden hours imposed on the public. To this end, since FY 2002, the Department has submitted twelve burden reduction initiatives to OMB, several of which have already resulted in a reduction of approximately 221,751 burden hours. The status of the Department's burden reduction initiatives as reported in its

[1] A violation of the PRA occurs when an Agency collects information from the public without OMB approval.

Information Collection Budget is noted in Attachment "A". These initiatives involve three main burden-reduction strategies:

- comprehensive evaluation and updating of regulations;
- streamlined information collections; and
- deployment of automated information collection techniques.

The Department takes the PRA very seriously. As a mission-critical responsibility, DOL provides full management support and has established well-defined policies and procedures for implementing and managing the PRA. The following briefly discusses DOL's PRA management structure.

The PRA requires each agency head to designate a Senior Official to carry out the responsibilities of the agency under the PRA. At DOL, this is the Chief Information Officer (CIO), who reports directly to the Secretary and is responsible for ensuring agency compliance with the PRA. Accordingly, the CIO established an independent process to evaluate proposed information collections and issued internal policy for implementing the Department's information collection management program.

The Department of Labor Manual Series establishes DOL's procedures for implementing its PRA program. This internal policy directive assigns to DOL sub-agency heads the responsibility of ensuring sub-agency compliance with the PRA and other applicable laws and policies.

Furthermore, the directive assigns DOL's information collection management to the Departmental Clearance Officer and DOL sub-agency-level management to Agency Clearance Officers. Agency Clearance Officers manage the PRA in each DOL sub-agency and provide both in-depth programmatic and PRA expertise which further ensures that DOL's information collections effectively meet the PRA's requirements of "need" and "practical utility."

As part of assigned duties, the Departmental Clearance Officer manages the day-to-day activities of implementing the PRA for the CIO. The Departmental Clearance Officer reviews information collection requirements contained in regulatory documents and in information collection requests to ensure:

- Legal authority or necessity for the collection of information;

- Compliance with the PRA, the E-gov Act, Privacy Act, and other applicable laws; and

- The collection imposes minimum burden on the public and offers practical utility.

Additionally, the Departmental Clearance Officer provides overall management of DOL's information collection enterprise including but not limited to:

- Managing efforts to reduce DOL's public paperwork burden in accordance with the President's Management Agenda;
- Coordinating information collection activity with OMB and DOL agencies;
- Conducting public consultations as required by the PRA;
- Providing training and technical assistance on PRA requirements;
- Managing data associated with DOL's information collection inventory; and
- Providing leadership for identifying and implementing burden reduction strategies.

Throughout the year, the Departmental Clearance Officer collaborates with Agency Clearance Officers to:

- Monitor program performance against the ICB to ensure that reported goals are realized;
- Evaluate program activities to ensure compliance with the PRA; and
- Manage the life-cycle of existing collections of information to ensure continued need, effectiveness, efficiency, and utility and to ensure that expiring collections are submitted to OMB in a timely manner.

Through its rigorous internal review process, the Department aggressively controls the amount of burden it imposes on the American public and ensures practical utility of its information collections with five main strategies:

1. Review of Rulemaking Actions: This strategy ensures regulatory actions are based on mission critical needs and impose minimum practicable burden. The review ensures that the public burden has maximum practical utility and public benefit.

2. Assessing the Use of Technology: This strategy involves implementing the Government Paperwork Elimination Act of 1998, the Clinger-Cohen Act, and E-Government Act of 2002 By Strategically deploying automated information collection techniques in order to reduce public paperwork burdens.

3. Routine Review of Information Collection Activities: This strategy involves carefully assessing all new information collection requests and all collections of information seeking extended OMB approval for programmatic necessity, legal authority, maximum practical utility and public benefit, and burden reduction strategies.

4. Burden Reduction Initiatives: This strategy involves initiating systemic enterprise-level efforts through Departmental burden reduction initiatives. Specific initiatives were previously noted in this testimony and are discussed in detail in Attachment A.

5. Public Consultation: To help ensure the practical utility of information it collects, including the frequency and collection methods, the Department relies heavily on the public consultation process required by the PRA. Key stakeholders and industry experts are consulted as part of the Department's rulemaking process and interested parties as well as the general public are afforded two opportunities to comment on proposed information collection activities, which collectively provide the public 90 days to provide input on the practical utility of DOL's information collections as well as provide insights for reducing the burden they impose.

Through a rigorous internal review process and aggressive burden reduction strategies, the Department of Labor is committed to reducing the paperwork burden on the American public. In addition, the Department has a very strong program of compliance assistance to help all businesses comply with our requirements.

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

ATTACHMENTS

Attachment A -- Labor Department Information Collection Budget Burden Reduction Initiatives Status Report.

Attachment B -- Accounting of Labor Department Burden Changes.

ATTACHMENT A

Labor Department Information Collection Budget
Burden Reduction Initiatives Status Report

FY 2005 INFORMATION COLLECTION BUDGET

FY 2005 Initiative 1:

Sub-agency: Employment and Training Administration (ETA)

Initiative Title: ETA Management Information and Longitudinal Evaluation Reporting System ("EMILE")

Description: ETA is implementing common performance measures to better account for the federal dollars invested in employment and training programs and to improve information available about program effectiveness. the common results that will be measured for adult programs will be employment, retention and earnings and for youth and lifelong learners they will be employment or education, attainment of a degree or certificate, and improvement in literacy and numeric skills. In addition, efficiency, calculated as cost per participant, will be measured. To facilitate performance reporting, EMILE will consolidate and streamline multiple Workforce Investment Act reporting requirements covered by approximately 10 separate information collection requests into one Office of Management and Budget (OMB) control number.

Status: Delayed.

OMB did not include this initiative in its final version of the Information Collection Budget because implementation of EMILE has been delayed for the following reasons:

- **Reconciliation of Public Comments:** ETA continues to reconcile the comments and will make appropriate changes to the proposal.

- **Feasibility Study:** In order to move forward with the proposal and to be sensitive to the concerns raised through the initial comment period, ETA is conducting a feasibility study that will examine the steps necessary and level of effort required for states to move to EMILE as proposed. The study will look at 3 states (California, Tennessee, and New York) and 2 local areas from each of these 3 states to assess the startup and ongoing costs of EMILE by determining the information system changes necessary to implement EMILE. Final results from this feasibility study are expected in January 2006.

- **Additional Public Comment:** There was an opportunity for the public to comment on EMILE during the 60-day comment period (July – Sept. 2004), and

there will be another opportunity for comment once we reconcile the comments received and assess the results of the feasibility study.

Common performance measures: ETA is moving forward with implementation of the common performance measures for job training and employment programs beginning July 1, 2005. DOL is revising information collections and reporting requirements by program as appropriate.

FY 2005 Initiative 2:

Agency: Occupational Safety and Health Administration (OSHA)

Initiative Title: OSHA Standards on Mechanical Power Presses

Description: OSHA is engaged in a long term project to update some of its standards that are based on adopted National Consensus Standards. One standard that will be reviewed under this project is the Standard on Mechanical Power Presses. OSHA adopted that standard in 1971 based on the 1971 revision of the American National Standards Institute (ANSI) voluntary consensus standard. OSHA has decided to update this standard to address concerns that the Mechanical Power Presses standard is out-of-date and could be made safer and less burdensome. The Mechanical Power Press standard requires employers to conduct inspections and prepare certification records of mechanical power presses. Modification to the frequency of inspection or removal of the certification records could significantly reduce burden hours on respondents.

Status: In progress.

In the November 24, 2004, edition of the **Federal Register**, OSHA announced its strategy for updating its standards that reference, or are based on, national consensus standards. On the same date, OSHA also published the first in a series of **Federal Register** documents to begin the update process. The first initiative was a direct final rule revoking five references to outdated consensus and industry standards. Because of significant adverse comment on the direct final rule, OSHA withdrew the direct final and is now using the more lengthy "notice and comment" rulemaking process to complete the rulemaking. Based on this experience and due to the large number of standards affected by the update project, it is not possible to state with specificity when the revision to the Mechanical Power Presses Standard will be proposed for revision. Our initial review of the Mechanical Power Presses Standard indicates that the changes involved to update it will require the use of "notice and comment" rulemaking, rather than the direct final rule process.

FY 2005 Initiative 3:

Sub-agency: Occupational Safety and Health Administration (OSHA)

Initiative Title: Lead in Construction (610 Lookback Review)

Description: OSHA is undertaking a review of the Lead in Construction Standard in accordance with the Regulatory Flexibility Act and section 5 of Executive Order 12866. Among other considerations, the review will consider the continued need for the rule, potential reduction in regulatory burden. The Standard includes requirements for lead-exposure monitoring, establishing compliance programs, medical surveillance, and recordkeeping requirements. Burden could potentially be reduced by modifying or changing the frequency of these requirements. In addition, burden could also be achieved by streamlining certain requirements.

Status: In progress.

OSHA published a **Federal Register** notice on June 6, 2005, requesting public comments concerning OSHA's review of the Lead in Construction Standard (29 CFR 1926.62) by the end the third quarter FY 2005. The notice allows ninety days for public comment.

Note: This initiative was added after DOL's original Information Collection Budget (ICB) was submitted to the Office of Management and Budget (OMB). The initiative was not included in DOL's original submission because it was not determined to be an initiative at the time the ICR was originally due to OMB. However, once it was determined that this effort would be pursued as a burden reduction initiative, DOL/OSHA wanted to showcase it in the ICB.

FY 2004 INFORMATION COLLECTION BUDGET

FY 2004 Initiative 1:

Sub-agency: Office of the Chief Information Officer

Initiative Title: E-Grants

Description: The Department's E-Grants initiative is an enterprise-wide response to the President Management Agenda for an electronic government by streamlining and automating the application and management process for Federal grant programs. Previously, DOL agencies used various processes, both automated and manual, to manage its grants programs. There was no central data repository or source to provide a unified understanding of department-wide grants activity or application processes.

Status:
Implementation stage.

DOL's E-Grants is currently being implemented. E-Grants eliminates redundant or disparate data collection requirements and improves efficiency, simplifies the grant application procedures through standardized processes and data definitions, and improves services to constituents. Currently, DOL cannot quantify the actual burden hour savings associated with the implementation of E-Grants.

FY 2004 Initiative: 2

Sub-agency: Mine Safety and Health Administration (MSHA)

Initiative Title: Single Source Coal Reporting (SSCR)

Description: Every coal producer in the United States must report their production activity and other information to multiple federal, state and tribal agencies. Currently, each agency collects data through separate processes and forms, requiring the coal producers to report very similar data multiple times to multiple agencies. SSCR is an initiative to streamline the coal reporting process by consolidating, automating, and simplifying the data reporting requirements of the multiple agencies. The SSCR solution will consolidate multiple agency reporting processes into a single process from the perspective of the filer. With SSCR, permitees, operators, and/or contractors (collectively, "Reporting Entities") will report all required information once, through a single process. SSCR will then distribute the information to the agencies that require it.

DOL's Mine Safety and Health Administration is an active participant in the Single Source Coal Reporting project aimed at reducing the burden for industry and expanding the use of electronic services for government compliance. The Single Source Coal Reporting e-Form test pilot was partially funded by the Small Business Administration's One-Stop Business Compliance Presidential Quicksilver Initiative. When fully implemented, industry will submit required data once, and the federal and state agencies will share that data.

Status: Ready to implement.

The pilot test was successfully completed in January 2003. The Department of Interior (DOI) has secured funding through the Office of Surface Mining for this project. In FY2004, a contractor gathered information from MSHA, DOI, private industry, and other agencies to define the requirements. The Office of Surface Mining now has the final requirements and is going to implement the program. The target date for completion is the end of FY 2005. Actual burden hour savings will be quantified after MSHA has experience with the new system.

FY 2003 INFORMATION COLLECTION BUDGET

FY 2003 Initiative 1:

Sub-agency: Bureau of Labor Statistics (BLS)

Initiative Title: Quarterly Census of Employment and Wages Program Multiple Worksite Report (MWR) and Report of Federal Employment and Wages (RFEW)

Description: BLS proposes an initiative for its Multiple Worksite Report and Report of Federal Employment and Wages (ES-202 Program). This initiative was originally scheduled as an FY 2002 burden reduction initiative but was rescheduled for FY 2003. The initiative proposes to reduce public burden by approximately 9,689 hours through offering an electronic reporting option.

Status: Complete.

Using the Electronic Data Interchange Center, more than 200 businesses and Federal agencies avoided filing 8,012 paper reports for the third quarter, 2004, or a projected 132,048 total paper reports for the year. This results in an annual burden hour reduction of approximately 11,751 hours for these firms.

FY 2003 Initiative 2:

Sub-agency: Bureau of Labor Statistics (BLS)

Initiative Title: Current Employment Statistics (CES) Survey

Description: BLS reduced total respondent burden for the Current Employment Statistics Survey after completing a sample redesign project, by deleting sample reports that were no longer needed, and by instituting a sample rotation program. The CES had not had a regular program of sample rotation under the old sample design and many respondents were asked to remain in the survey indefinitely. Another feature of the CES that minimizes respondent burden is the use of multiple, mostly electronic collection methods. CES offers survey respondents a choice of Touchtone data Entry (TDE), Computer Assisted Telephone Interviewing (CATI), Electronic Data Interchange (EDI), Fax, or Internet reporting.

Status: Complete.

The CES sample redesign is complete and the burden reduction associated with canceling units no longer needed is permanent. CES continues to offer a variety of data collection methods, allowing respondents to choose the method least burdensome for them, and thereby minimizing overall respondent burden associated with this survey.

CES uses Touchtone Data Entry (TDE) for about one-third of its sample. This makes reporting easier for the respondent. In addition, CES provides reporting options using Computer Assisted Telephone Interviewing (CATI), Electronic Data Interchange (EDI), and fax. CES uses EDI to collect data from 87 large firms, representing 4.8 million employees and 87,000 establishment locations. EDI significantly reduces reporting burden for these large firms. CES has developed facsimile transmission forms to lessen reporting burden on large/mid-size multi-unit firms by allowing them to report information for all of their establishments on one form each month. In many instances, cross-State reporting also is consolidated. About 36,000 reports are received via fax each month. CES is continuing to research and pioneer data collection using the Internet. CES currently has about 1,600 firms reporting via the Internet. We expect that reporting via the Internet will grow considerably as more respondents gain Internet access and familiarity. Our Internet research efforts focus on testing technology that maximizes data security while minimizing respondent burden. In June 2003, CES completed its transition from a quota-based sample design to a probability sample design. This has reduced the total number of establishments being contacted and thus reduced respondent burden. CES currently collects data from approximately 271,000 reporting units representing approximately 400,000 individual worksites.

FY 2003 Initiative 3:

Sub-agency: Occupational Safety and Health Administration (OSHA)

Initiative Title: Standards Improvement for General Industry, Marine Terminals, and Construction Standards (Phase II).

Description: OSHA proposed to reduce burden by 207,892 burden hours through updating numerous health standards. OSHA revised a number of health provisions in its standards for general industry, shipyard employment, and construction that are outdated, duplicative, unnecessary, or inconsistent.

Status: Complete.

The Agency published the final rule on January 5, 2005 (70 FR 1111). As a result of this rulemaking there was approximately a 210,000 hour reduction.

FY 2003 Initiative 4:

Sub-agency: Occupational Safety and Health Administration

Initiative Title: Review of Certification Requirements.

Description: OSHA also proposed to reassess its numerous standards containing certification records which could result in a burden reduction of as much as 3.5 million

hours.

Status: In progress.

Many of OSHA's certification records requirements are included in standards that are based on National Consensus Standards (NCS). Many of these standards were adopted by the Agency pursuant to Section 6(a) of the Occupational Safety and Health Act. The original standards included recordkeeping requirements to document various activities such as safety inspections of equipment.

In the November 24, 2004, edition of the Federal Register, OSHA announced its strategy for updating all of its standards that reference or are based on national consensus standards. On the same date, OSHA also published the first in a series of **Federal Register** documents to begin the update process. The first initiative was a direct final rule revoking five references to extremely outdated consensus and industry. Because of adverse comment on the direct final rule, OSHA withdrew the direct final and is now using the more lengthy "notice and comment" rulemaking process to complete the rulemaking. Based on this experience and due to the large number of standards affected by the update project, it is not possible to state with specificity when standards containing certification records will be considered for updating in this process.

FY 2002 INFORMATION COLLECTION BUDGET

FY 2002 Initiative 1:

Sub-agency: Bureau of Labor Statistics (BLS)

Initiative Title: ES-202 Program: Multiple Worksite Report (MWR) and Report of Federal Employment and Wages (RFEW)

Description: The BLS provides several reporting options designed to reduce employer-reporting burden. Computer listings are accepted in lieu of the Multiple Worksite Report if this is more convenient for the employer. Magnetic media specifications have been developed so that the States can accept an electronic submittal of Multiple Worksite Report (MWR) data directly from an employer. In addition, the Bureau has established an Electronic Data Interchange (EDI) Collection Center in Chicago, Illinois, whereby employers who complete the Multiple Worksite Report for multi-State locations can submit employment and wages information on any electronic medium (tape, cartridge, diskette, computer-to-computer) directly to the data collection center. The data collection center then forwards these data to the respective State agencies. Approximately 145 businesses representing 3,017,542 employees and 78,792 locations now report to the EDI Center.

The EDI Center collects data from the Department of Defense (DOD), the National Finance Center (NFC), the Army's Non-Appropriated Funded (NAF) activities, the

Department of Transportation, and the Department of Interior that represents 1,307,400 employees at 23,732 locations. The U.S. Postal Service and the General Services Administration have submitted test tapes containing data for approximately 27,000 locations and covering nearly 1,030,000 employees. Other Federal agencies that may provide electronic submittals in the future include the Department of Health and Human Services, Department of Labor, and the Veterans Administration.

BLS staff has begun planning a MWR web collection system to assist small employers who file the MWR. A workgroup consisting of State ES-202 staff was established and a proposed system as developed and is under review. The BLS continues to work closely with several service bureaus that prepare employers' payroll and tax reports to request the submittal of the Multiple Worksite Report data in an electronic medium directly to the BLS as a new service for their clients. Likewise, the BLS has been working closely with payroll/tax software developers to include in their systems the capability for electronic submittal of the Multiple Worksite Report data directly to the BLS. To date, two service bureaus and seven payroll/tax software developers have designed their systems to include this feature. We expect one or two additional payroll service bureaus and one additional payroll/tax software developer to add the electronic reporting to their systems in the near future. This approach significantly increases the number of employers using an electronic medium to submit the data since employers will not need to invest its own staff resources in the development and set-up of the new procedures. Either the service bureau or the software developer provides this service. The firms reporting to the EDI Center electronically are all large firms.

Status: Delayed.

The BLS's plans to provide web-enabled reporting for ES-202 has been delayed until late CY 2006 or early CY 2007. Currently, web-enabled reporting for the ES-202 program is in the beta testing stage.

FY 2002 Initiative 2:

Sub-agency: Employment Standards Administration (ESA)

Initiative Title: Automation of Labor Organization Annual Financial Reports, Forms LM-2/3/4.

Description: Titles II and III of the Labor-Management Reporting and Disclosure Act (LMRDA) requires the filing of various reports by labor organizations, union officers and employees, employers, labor relations consultants, and surety companies. These reporting requirements are implemented by the Office of Labor-Management Standards (OLMS). The electronic reporting initiative enhances the efficiency of agency information collection by permitting reporting entities to submit these reports electronically, resulting in timelier filing of reports and reports that are more accurate.

Status: Completed.

Information on actual burden hour savings will be available in FY 2006 when the information collection (OMB No. 1215-0188) is due for renewal under the PRA.

FY 2002 Initiative 3:

Sub-agency: Mine Safety and Health Administration (MSHA)

Initiative Title: Mine Operator Dust Data Cards; and Ventilation Plans, Tests and Examinations in Underground Coal Mines - 30, CFR Parts 70, 71 and 90

Description: MSHA planned to publish a final joint dust rule that would result in a reduction in burden hours of 40,690. MSHA planned to move dust sampling responsibilities from mine operators to MSHA which would result in reducing burden by 40,690 1and reducing cost to mines by approximately $1,597,852.

Status: Delayed.

Due to a change in rulemaking strategy, MSHA's plan to streamline requirements under 30 CFR Parts 70, 71, and 90 has been indefinitely delayed; therefore, DOL removed this as a burden reduction initiative for FY 2002.

ATTACHMENT B

Accounting of Labor Department Burden Changes

The Office of Management and Budget's Information Collection Budget (ICB) contains specific information about the Department of Labor's (DOL) burden changes. Additionally, significant changes[1] are discussed in detail in the ICB. As indicated in the attached testimony, DOL recognizes that the majority of its burden reduction is a result of adjustments.

As of May 2005, DOL experienced a 0.90% increase in burden hours (mostly adjustments) which is consistent with the 1% increase projected in the FY 2005 ICB and much less than the Federal-wide increase of 5.05% for the same period.

The below table summarizes DOL's burden hour changes by the following categories: (1) changes in statute, (2) agency actions, (3) lapse in OMB approval, and (4) adjustments[2]. A similar accounting for FY 2005 will be available in the FY 2006 ICB.

Accounting of Labor Department Burden Changes -- FY 2000 to FY 2004
(in millions)

Fiscal Year	Changes in Statute		Agency Actions		Lapsed in OMB Approval		Adjustments		Total Hours
FY 2000	2.01	1.0%	(0.42)	-0.2%	1.00	0.6%	(16.52)	-8.4%	181.59
FY 2001*	0.00	0.0%	(2.41)	-1.3%	0.00	0.0%	4.71	2.6%	186.11
FY 2002	0.05	0.0%	2.40	1.3%	0.00	0.0%	0.66	0.4%	189.23
FY 2003	0.20	0.1%	(0.11)	-0.1%	0.00	0.0%	(29.76)	-18.5%	160.65
FY 2004	(0.03)	0.0%	0.48	0.3%	0.00	0.0%	4.21	2.6%	164.23

Source: Information Collection Budget of the United States, Office of Management and Budget- Fiscal Years 2001 to 2005.
**Note: The FY 2001 Information Collection Budget did not disaggregate changes due to new statutes and changes due to agency actions.*

[1] According to OMB, significant changes are those of 10,000 hours or more or $10 million or more in burden cost changes.
[2] "Adjustments" generally result from factors outside of the Agency's control (e.g., universe fluctuation due economic factors, industry trends, etc.) as well as updates to estimates.

Mrs. MILLER. Thank you, sir.

Mr. PIZZELLA. Thank you.

Mrs. MILLER. Our next witness is Kevin Barrett. He is testifying today on behalf of the Synthetic Organic Chemical Manufacturers Association [SOCMA]. Mr. Barrett is a certified industrial hygienist and also a certified safety professional. He has worked for the chemical industry for about 16 years. He has been a member of the SOCMA for at least 10 years, and as a member of that he has chaired the Employee and Process Safety Committee for 5 years.

Mr. Barrett, we welcome you today and look forward to your testimony, sir.

STATEMENT OF KEVIN BARRETT

Mr. BARRETT. Good afternoon, Madam Chairwoman and members of the subcommittee. Thank you for the invitation to testify on our experience with the Paperwork Reduction Act.

My name is Kevin Barrett, and I am currently an industrial hygiene and safety consultant. I worked in the chemical industry for 18 years, and as a consultant I continue to provide support to chemical and industry clients.

I am testifying here today on behalf of the Synthetic Organic Chemical Manufacturers Organization [SOCMA], a trade association representing the interests of custom and specialty chemical manufacturers, 70 percent of whom are small businesses. My comments today focus on two particular weaknesses in implementing the Paperwork Reduction Act, specifically the cumulative effect of numerous regulatory requirements on affected facilities and the inaccurate calculations of the burden required by specific regulations.

Federal regulators have made significant strides in assessing and reducing the readily identifiable burdens, but regulatory burden still weighs on the chemical industry in terms of both cost and paperwork. We have picked all of the metaphorical low-hanging fruit of paperwork burden reduction and must now retire.

What I mean by the cumulative effect of regulatory requirements is the number of records and reports a facility is responsible for, including both overlapping and separate requirements imposed by State and Federal regulators.

In many cases, States are free to impose tougher standards on industry than are imposed by the Federal Government. The results are often regulatory strategies with similar goals but very different requirements. Consider the experience of one typical SOCMA member company.

This company is a small single-plant committee with approximately 110 employees and only one full-time employee dedicated to environment, health and safety issues. It is subject to over 150 State and Federal environmental regulations, must keep records to satisfy 98 different regulatory requirements and is obligated to submit at least 48 environmental reports per year. Alone, any one of these requirements seems unbearable. Only when they are aggregated is the extent of the regulatory burden clear, especially when it all falls on the shoulders of a single environmental health and safety professional.

In addition to not capturing the burden associated with cumulative requirements, the act enables agencies to be overly conserv-

ative in their assessment of a burden imposed by a particular regulatory requirement. This consistent underestimating of regulatory burden prevents Congress, the Federal regulators and interested citizens from understanding the full scope of the regulatory burden imposed on an industry.

One prime example of both cumulative effects and underestimating burden is the EPA's toxic release inventory reporting requirements. This rule has been a major focus of EPA's burden reduction efforts over the past several years and EPA has claimed positive results. At the time of the EPA's last information collection request to the Office of Management and Budget, the burden for repeat filers dropped from 47.1 hours to 14.5 hours.

In contrast, one SOCMA member, who is a repeat filer, spent approximately 250 hours completing his TRI report in 19—excuse me, in 2003. Additional requirements imposed by the State add another 80 hours to this total.

A second example of an agency's underestimation of reporting burden is evident in OSHA's lockout/tagout burden calculations. This rule addresses the safety of work on equipment that, if unexpectedly energized during servicing or maintenance, could cause injury. In their most recent information collection request to the Office of Management and Budget, OSHA calculated the burden of compliance with this program anywhere between 15 seconds and 80 hours. The low-end estimates do not appear realistic.

Specifically ensuring compliance with each written lockout procedure requires an annual inspection of that procedure, which must be documented in the written certification for each occurrence. In addition, the training provisions require written certifications and any retraining performed.

Considering these and the other requirements, one SOCMA member calculated the low end of the annual burden for lockout/tagout at about 7 hours per facility. Again this does not sound like much, but it is almost a full day's work and is significantly more than 15 seconds. If aggregated over 818,532 respondents identified by OSHA and if every respondent spends the minimum 7 hours, OSHA would need to double their estimate of burden hours.

In conclusion, focusing attention on the Paperwork Reduction Act provides a promising opportunity for OSHA, the EPA and the regulated community to reassess existing requirements, specifically the problems caused by the cumulative effect of numerous regulatory requirements and inaccurate calculation of burden. We hope that agencies actively engage the regulated community on future burden reduction efforts in order to enhance American small business competitiveness in the global economy.

Thank you for your invitation to present our views today. I am happy to answer any questions you might have.

[The prepared statement of Mr. Barrett follows:]

Testimony
of
Kevin R. Barrett, CIH, CSP

On behalf of the

Synthetic Organic Chemical Manufacturers Association

Before the
House Government Reform Committee

Subcommittee on Regulatory Affairs

On

"Reducing the Paperwork Burden on the Public:
Are Agencies Doing All They Can?"

June 14, 2005

1850 M Street, NW • Suite 700 • Washington, DC 20036
(202)721- 4100 • Fax (202) 296 - 8120

Good afternoon Madam Chair and members of the SubCommittee. Thank you for the invitation to testify on our experience with implementation of the Paperwork Reduction Act. My name is Kevin Barrett and I am currently an industrial hygiene and safety consultant. I worked in the chemical industry for 18 years, and as a consultant I continue to provide support to chemical industry clients. I am testifying here today on behalf of the Synthetic Organic Chemical Manufacturers Association, also known by the acronym "SOCMA", a trade association representing the interests of custom and specialty chemical manufacturers, 70% of whom are small businesses.

My comments today focus on two particular weaknesses in implementing the Paperwork Reduction Act, specifically: the cumulative effect of numerous regulatory requirements on affected facilities; and the inaccurate calculations of the burden required by specific regulations. Federal regulators have made significant strides in assessing and reducing the readily identifiable burdens, but regulatory burden still weighs on the chemical industry in terms of both cost and paperwork. We have picked all of the metaphorical "low-hanging fruit" of paperwork burden reduction and must now reach higher.

What I mean by the cumulative effect of regulatory requirements is the number of records and reports a facility is responsible for, including both overlapping and separate requirements imposed by state and Federal regulators. In many cases, states are free to impose tougher standards on industry than are imposed by the Federal government. The results are often regulatory strategies with similar goals, but very different requirements.

Consider the experience of one typical SOCMA member company. This company is a small, single-plant company with approximately 110 employees and only one full time employee dedicated to environment, health, and safety issues. It is subject to over 150 state and Federal environmental regulations, must keep records to satisfy 98 different regulatory requirements, and is obligated to submit at least 48 environmental reports per year. Alone, none of these requirements seems unbearable. Only when they are aggregated is the extent of the regulatory burden clear – especially when it all falls on the shoulders of a single environmental health and safety professional.

In addition to not capturing the burden associated with cumulative requirements, the Act enables agencies to be overly conservative in their assessment of burden imposed by a particular regulatory requirement. This consistent under-estimating of regulatory burden prevents Congress, the federal regulators, and interested citizens from understanding the full scope of the regulatory burden imposed on an industry.

One prime example of both cumulative effects and underestimating burden is the EPA's Toxic Release Inventory reporting requirements. This rule has been a major focus of EPA's burden reduction efforts over the past several years, and EPA has claimed positive results. At the time of EPA's last Information Collection Request to the Office of Management and Budget, the burden for repeat filers dropped from 47.1 hours to 14.5 hours. In contrast, one SOCMA member, who is a repeat filer, spent approximately 250 hours completing his TRI reports in 2003. Additional requirements imposed by the State add another eighty hours to this total.

A second example of an agency's underestimation of reporting burden is evident in OSHA's lockout/tagout burden calculations. This rule addresses the safety of work on equipment that, if unexpectedly energized during servicing or maintenance, could cause injury. In their most recent Information Collection Request to the Office of Management and Budget, OSHA calculated the burden of compliance with this program at anywhere between fifteen seconds and eighty hours.

The low end estimates do not appear realistic. Specifically, ensuring compliance with each written lockout procedure requires an annual inspection of that procedure, which must be documented in a written certification for each occurrence. In addition, the training provisions require written certification of training and any retraining performed. Considering these and the other requirements, one SOCMA member calculated the low-end of the annual burden for lockout/tagout at about seven hours per facility. Again, this does not sound like much, but it is almost a full day's work, and is significantly more than fifteen seconds. If aggregated over the 800,000-plus respondents identified by OSHA, and if every respondent only spends the minimum 7 hours, OSHA would need to double their estimate of total burden hours.

In conclusion, focusing attention on the Paperwork Reduction Act provides a promising opportunity for OSHA, the EPA and the regulated community to reassess existing requirements, specifically the problems caused by the cumulative effect of numerous regulatory requirements and inaccurate calculations of burden. We hope that agencies

actively engage the regulated community on future burden reduction efforts in order to enhance American small business competitiveness in the global economy. Thank you for your invitation to present our views today. I am happy to answer any questions you might have.

Exhibit 1: Environmental Regulatory Burden of a SOCMA Member Company

Brief Description of Applicable Air Requirement	Pollutants	Regulatory Citation	Reporting Requirement (Yes/No)	Record Keeping Requirement (Yes/No)
General Requirements: Circumvention. This rule prohibits concealment or dilution of air pollutants emitted, which would violate Chapter 20.	All regulated pollutants	9 VAC 5-20-70	No	No
General Requirements: Relationship of state regulations to federal regulations. This rule does not impose specific requirements for sources or emission units.	All regulated pollutants	9 VAC 5-20-80	No	No
General Requirements: Air quality program policies and procedures. This rule does not impose specific requirements for sources or emission units.	All regulated pollutants	9 VAC 5-20-121	No	No
General Requirements: Registration. This rule does not impose specific requirements for sources or emission units.	All regulated pollutants	9 VAC 5-20-160	No	No
Excess emissions, as defined at 9 VAC 5-10-20, which last for more than one hour, must be reported to the board as described by 9 VAC 5-20-180.	All regulated pollutants	9 VAC 5-20-180 Permit dated 10/5/01; Condition 31. Permit dated 4/9/92; Condition 12.	Yes	Yes
General Requirements: Air Quality Control Regions Pittsylvania County is located in the Central Virginia Intrastate Air Quality Control Region (AQCR 3.) This rule does not impose specific requirements for sources or emission units.	None	9 VAC 5-20-200	No	No
General Requirements: Lists prevention of significant deterioration (PSD)areas. Pittsylvania County is a PSD area for all PSD pollutants.	PSD Pollutants	9 VAC 5-20-205	No	No
Existing Stationary Sources-Part I: Special Provisions - Applicability. This rule does not impose specific requirements for sources or emission units.	All regulated pollutants	9 VAC 5-40-10	No	No
Existing Stationary Sources-Part I: Special Provisions- Compliance. This rule gives general requirements for demonstrating compliance with applicable portions of Chapter 40, but does not impose specific requirements for sources or emission units.	All regulated pollutants	9 VAC 5-40-20	No	No
Existing Stationary Sources - Part I: Special Provisions - Notification, records, and recording. This rule requires existing source to keep records to determine emissions and regulatory exemption status.	All regulated pollutants	9 VAC 5-40-50F	Yes	Yes
Existing Stationary Sources - Part II: Emission Standards - visible emissions. Visible emissions shall not exceed 20% opacity, except for one six minute period in any one hour not to exceed more than60% opacity. The presence of water vapor shall not be a violation of this section	Visible emissions	9 VAC 5-40-80	No	No
Existing Stationary Sources - Part II: Emission Standards - Test Methods and Procedures. The provisions of 9VAC 5-40-20 A2 apply to determine compliance with the standard prescribed in 9 VAC 5-40-80.	Visible emissions	9 VAC 5-40-110	No	No
Existing Stationary Sources - Part II: Emission Standards. Applicability and designation of affected facility. Fuel Burning Equipment (Rule 4-8). This rule does not impose specific requirements for sources or emission units.	PM/PM10, SO2, visible emissions	9 VAC 5-40-880	No	No
Existing Stationary Sources - Part II: Emission Standards - Fuel Burning Equipment (Rule 4-8). Standard for particular matter. Limits the maximum allowable particulate matter (PM) emission, rate to 0.565 lbs/MMBtu of heat input. The allowable emission rate is calculated using E = 1.0906 H-0.2594. E = the allowable emission rate and H = the total maxiumum hourly heat input for F1plus F2, or 12.6 MMbtu/hr.	PM/PM10	9 VAC 5-40-900	No	No
Existing Stationary Sources - Part II: Emission Standards. Fuel Burning Equipment (Rule 4-8). Standard for Sulfur Dioxide. Limits total maximum SO2 emissions from F1 and F2 to 33.26 pounds per hour. The allowable emission rate is calculated using S = 2.64K. S = the allowable emission rate and K = the maximum hourly heat input for F1 plus F2, or 12.6 MMbtu/hr.	SO2	9 VAC 5-40-930	No	No
Existing Stationary Sources-Part II: Emission Standards - Fuel Burning Equipment (Rule 4-8). Visible emissions shall not exceed 20% opacity, except for one six minute period in any one hour not to exceed more than 60% opacity. The presence of water vapor shall not be a violation of this section.	Visible emissions	9 VAC 5-40-940	No	No
Existing Stationary Sources-Part II: Emission Standards-Fuel Burning Equipment (Rule 4-8). Compliance. Only the provision of 9 VAC 5-40-20 A.2 applies specifically to F1 and F2 with regard to determining compliance with 9 VAC 5-40-940.	Visible emissions	9 VAC 5-40-980	No	No
Existing Stationary Sources-Part II: Emission Standards - Fuel Burning Equipment (Rule 4-8). Notification and recordkeeping. See description of applicable requirement for 9 VAC 5-40-50F.	All regulated pollutants	9 VAC 5-40-1010	Yes. Same as Ref. No. AP-10	
Existing Stationary Sources-Part II: Emission Standards - Fuel Burning Equipment (Rule 4-8). Registration. See description of applicable requirements for 9 VAC 5-20-160.	All regulated pollutants	9 VAC 5-40-1020	No	No

Exhibit 1: Environmental Regulatory Burden of a SOCMA Member Company

Brief Description of Applicable Air Requirement	Pollutants	Regulatory Citation	Reporting Requirement (Yes/No)	Record Keeping Requirement (Yes/No)
Existing Stationary Sources-Part II: Emission Standards - Fuel Burning Equipment (Rule 4-8). Facility and control equipment maintenance or malfunction. See description of applicable requirement for 9 VAC 5-20-180.	SO2; PM/PM10, visible emissions	9 VAC 5-40-1030	Yes. Same as Ref. No. AP-5	
Existing Stationary Sources-Part II: Emission Standards - Open Burning (Rule 4-40). The following parts of this rule are state requirements only and are not federally enforceable: 5-40-5600B;5-40-5610A, B; 5-40-5610 C*; 5-40-5620 B-D,G; 5-40-5630 2, 4,7, 9; 5-40-5641.	Not specified in rule	9 VAC 5-40-5600 through 5640	No	No
New and Modified Stationary Sources-Part I: Special Provisions -Applicability. This rule does not impose specific requirements for sources or emission limits.	All regulated pollutants	9 VAC 5-50-10	No	No
New and Modified Stationary Sources-Part I: Special Provisions -Compliance. This rule gives general requirements for demonstrating compliance with applicable portions of Chapter 50, but does not impose specific requirements for sources or emission units.	All regulated pollutants	9 VAC 5-50-20	No	No
New and Modified Stationary Sources-Part I: Special Provisions -Performance testing. The owner shall provide, or cause to be provided, performance testing facilities as specified at 9 VAC 5-50-30F, upon the request of the board.	N/A	9 VAC 5-50-30F	No	No
Monthly and annual production of each product	VOC	9 VAC 5-50-50 Permit dated 10/05/01; Condition 26 (a).	No	Yes
Monthly and annual calculation of VOC emission. Annual VOC emissions shall be calculated as the sum of each consecutive 12 month period.	VOC	9 VAC 5-50-50 Permit dated 10/05/01; Condition 26 (a).	No	Yes
Monthly and annual calculation of speciated HAP emissions. Annual HAP emissions shall be calculated as the sum of each consecutive 12 month period.	HAP	9 VAC 5-50-50 Permit dated 10/05/01; Condition 26 (h).	No	Yes
Annual consumption of natural gas and fuel oil calculated monthly as the sum of each consecutive 12 month period.	N/A	9 VAC 5-50-50 Permit dated 10/05/01; Condition 26 (g).	No	Yes
Certificates of analysis for all oxalyl chloride batches purchased, indicating the phosgene concentration (in ppm) for each batch.	Phosgene	9 VAC 5-50-50 Permit dated 10/05/01; Condition 26 (c).	No	Yes
Date of receipt and volume delivered for each shipment of fuel oil.	N/A	9 VAC 5-50-50 Permit dated 10/05/01; Condition 26 (f).	No	Yes
New and Modified Stationary Sources-Part I: Special Provisions -Notification, records, and reporting. This rule requires existing source owners to keep records to determine emissions and regulatory exemption status.	All regulated pollutants	9 VAC 5-50-50F	Yes	Yes
New and Modified Stationary Sources - Part II: Emission Standards-Visible emissions. Visible emissions shall not exceed 20% opacity except for one six minute period in any one hour not to exceed more than 30% opacity. The presence of water vapor shall not be a violation of this section.	Visible emissions	9 VAC 5-50-80	No	No
New and Modified Stationary Sources - Part II: Emission Standards-Standard for fugitive dust/emissions sets forth reasonable precautions for preventing fugitive dust/emissions.	Fugitive dust	9 VAC 5-50-90	No	No
New and Modified Stationary Sources - Part II: Emission Standards-Test methods and procedures. The provisions of 9 VAC 5-50-20 A2 apply to determine compliance with the standard prescribed in 9 VAC 5-50-80.	Visible emissions	9 VAC 5-50-110	No	No
The emission rate increase of each toxic air pollutant from a new or modified process shall be evaluated for compliance with Condition 18. Records will be maintained as needed to show compliance. A report for each process change will be submitted within 30 days of implementing the change.	HAP	9 VAC 5-50-180 and 5-50-50. Permit dated 10/5/01; Condition 18, 26(b), and 27.	Yes	Yes
New and Modified Stationary Sources - Part II: Emission Standards- Standards of Performance for Stationary Sources (Rule 5-4). Applicability and designation of affected facility. This section defines affected facility, but does not impose specific requirements for sources or emission units.	All regulated pollutants	9 VAC 5-50-240	No	No
Emissions of VOC from the specialty chemical manufacturing equipment (SCME) emissions group shall not exceed 83.5 tons per year.	VOC	9 VAC 5-50-260; 5-80-850 Permit dated 10/5/01; Condition 17.	No	Yes. Same as Ref. No. AP-26
Emissions of HAP from the specialty chemical manufacturing equipment (SCME) emissions group shall not exceed 9.9 tons per year for any individual HAP and 24.9 tons per year for total HAP.	HAP	9 VAC 5-50-260; 5-80-850 Permit dated 10/5/01; Condition 17.	No	Yes. Same as AP-27.
Particulate emissions from handling, drying, drumming, and packaging operations shall be controlled by a fabric filter. The fabric filter will be maintained in working order at all times, and will be equipped with a device to continuously measure the differential pressure drop across the fabric filter.	PM/PM10	5-50-260; Permit dated 10/05/01; Conditions 3 and 4.	No	Yes

Exhibit 1: Environmental Regulatory Burden of a SOCMA Member Company

Brief Description of Applicable Air Requirement	Pollutants	Regulatory Citation	Reporting Requirement (Yes/No)	Record Keeping Requirement (Yes/No)
Particulate emissions from the spray dryer will be controlled by a venturi scrubber. (See page 17 of Title V application forms for suggested streamlining).	PM/PM10	5-50-260; Permit dated 10/05/01; Condition 5.	No	Yes
The production of high purity calcium hydroxide shall not exceed 6,800 tons per year, calculated as the sum of each consecutive 12 month period.	PM/PM10	9 VAC 5-50-260 Permit dated 4/9/92; Condition 6.	No	Yes
Particulate emissions from the dryer shall be controlled by a baghouse. The baghouse will be maintained in working order at all times and will be equipped with a device to continuously measure the differential pressure drop across the fabric filter. (See page 17 of Title V application forms for suggested streamlining).	PM/PM10	9 VAC 5-50-260 Permit dated 4/9/92; Condition 3.	No	Yes
Particulate emissions from the calcium hydroxide railcar loading/shipping shall be controlled by a filter sack, or equivalent.	PM/PM10	9 VAC 5-50-260 Permit dated 4/9/92; Condition 4.	No	No
Particulate emissions from the calcium hydroxide supersack packaging and the calcium hydroxide conveying system shall be controlled by an inline filter, located prior to the nitrogen surge tank. (See page 17 of Title V application forms for suggested streamlining.	PM/PM10	9 VAC 5-50-260 Permit dated 4/9/92; Condition 5.	No	No
Volatile organic compound (VOC) emissions from condensers E05 A and B and the compressor loop shall be controlled by a flare. The flare shall be operated at all times when VOC emissions are vented to it. The presence of the flare pilot flame shll be monitored using a thermocouple or other equivalent device.	VOC	9 VAC 5-50-260 Permit dated 10/05/01; Conditions 9 and 10.	No	Yes
The maleic anhydride emission from the storage facility will be controlled by a wet scrubber.	Maleic anhydride	9 VAC 5-50-260 Permit dated 10/05/01; Condition 6.	No	Yes
The approved fuels for the boilers are natural gas and distillate oil. Distillate oil is defined as fuel oil that meets the specifications for fuel oil numbers 1 or 2 under the ASTM "Standards Specification for Fuel Oils". A change in the fuel may require a permit to modify and operate.	SO2	9 VAC 5-50-260 Permit dated 10/05/01; Conditions 12 and 14.	No	Yes. Same as Ref. No. AP-67
During production of crude CPPO, when using oxalyl chloride with a phosgene content greater than 200 ppm, phosgene emissions will be controlled by a caustic wet scrubber (scrubbing solution 3 to 15 percent free caustic). The scrubber will be provided with a flow meter and a device to continuously measure differential pressure through the scrubber.	Phosgene	9 VAC 5-50-260 Permit dated 10/05/01; Conditions 7 and 8.	No	Yes. Same as Ref. No. AP-29
Visible emissions shall not exceed 10 percent opacity except not to exceed 20 percent opacity in any one hour	Visible emissions	9 VAC 5-50-260 and 5-50-20. Permit dated 10/05/01; Condition	No	No
Visible emissions shall not exceed 5 percent opacity.	Visible emissions	9 VAC 5-50-260 and 5-50-20. Permit dated 10/05/01; Condition	No	No
Visible emissions shall not exceed 10 percent opacity.	Visible emissions	9 VAC 5-50-260 and 5-50-20. Permit dated 10/05/01; Condition 21.	No	No
Visible emissions shall not exceed 5 percent opacity.	Visible emissions	9 VAC 5-50-260 and 5-50-20. Permit dated 10/05/01; Condition 22.	No	No
Visible emissions shall not exceed 5 percent opacity.	Visible emissions	9 VAC 5-50-260 and 5-50-20. Permit dated 10/05/01; Condition	No	No
Visible emissions shall not exceed 5 percent opacity.	Visible emissions	9 VAC 5-50-260 and 5-50-20. Permit dated 10/05/01; Condition	No	No
Emissions from Boiler No. 4 shall not exceed 12.9 lbs/hr and 39 tons/yr.	SO2	9 VAC 5-50-260. Permit dated 10/05/01; Condition 16.	Yes. Same as Ref. No. AP-5	
New and Modified Sources - Part II: Emission Standards -Standard for visible emissions. See description for 9 VAC 5-50-80.	Visible Emissions	9 VAC 5-50-290	No	No
New and Modified Sources - Part II: Emission Standards -Standard for fugitive dust/emissions. See description for 9 VAC 5-50-90 .	Fugitive dust	9 VAC 5-50-300	No	No
New and Modified Sources - Part II: Emission Standards -Compliance. See description for 9 VAC 5-50-20.	All regulated pollutants	9 VAC 5-50-330	No	No
New and Modified Sources - Part II: Emission Standards -Test methods and procedures. See description for 9 VAC 5-50-30F.	N/A	9 VAC 5-50-340	No	No
New and Modified Sources - Part II: Emission Standards -Notification, records, and reporting. See description for 9 VAC 5-50-50F.	All regulated pollutants	9 VAC 5-50-360	See other table entries for permit conditions.	
New and Modified Sources - Part II: Emission Standards -Registration. See description for 9 VAC 5-20-160.	All regulated pollutants	9 VAC 5-50-370	No	No

Exhibit 1: Environmental Regulatory Burden of a SOCMA Member Company

Brief Description of Applicable Air Requirement	Pollutants	Regulatory Citation	Reporting Requirement (Yes/No)	Record Keeping Requirement (Yes/No)
New and Modified Sources - Part II: Emission Standards -Facility and control equipment maintenance or malfunction. See description for 9 VAC 5-20-180.	All regulated pollutants	9 VAC 5-50-380	Yes. Same as Ref. No. AP-5	
Permits for New and Modified Sources. Specifies general requirements and provisions regarding application for and issuance of a permit to construct, reconstruct, relocate, or modify any stationary source.	All regulated pollutants	9 VAC 5-80-10	No	Yes
State Operating Permits for Stationary Sources. This rule incorporates all elements of the state operating permit regulation. XXXXXX's permit issued under this regulation establishes XXXXXX as a synthetic minor.	All regulated pollutants	9 VAC 5-80-800 through 5-80-1040.	No	Yes
Payment of biennial fee for facilities holding state operating permits.	All regulated pollutants	VA Environmental Law; Ch. 13, Article 1, Section 10.1 - 1322.B	Yes	Yes
Develop a maintenance schedule for air pollution control devices and maintain an inventory of spare parts.	VOC PM	9 VAC 5-50-20E Permit dated 10/05/01; Condition 33 Permit dated 4/9/92; Condition 13.	No	Yes
The permittee shall have available written operating procedures for the related air pollution control equipment. Operators shall be trained in the proper operation of all such equipment and shall be familiar with the written operating procedures. These procedures shall be based on the manufacturer's recommendations, at a minimum. The permittee shall maintain records of training provided.	VOC PM	9 VAC 5-50-20E Permit dated 10/05/01; Condition 33 Permit dated 4/9/92; Condition 14.	No	Yes
Boiler No. 4 shall consume no more than 1,098,600 gallons of distillate oil per year, calculated as the sum of each consecutive 12 month period.	SO2	9 VAC 5-170-160. Permit dated 10/05/01; Condition 13.	No	Yes
The maximum sulfur content of oil fired in Boiler No. 4 shall not exceed 0.5% by weight. Certification will be obtained from the fuel supplier with each shipment of fuel oil. The certification shall include name of the fuel supplier and statement that fuel oil meets ASTM D396 for numbers 1 or 2 fuel oil.	SO2	40 CFR 60.42c(d) 9 VAC 5-170-160 and 5-50-410. Permit dated 10/05/01; Condition 15.	No	Yes
Fuel quality reports will be submitted to the South Central Regional Office and EPA Region III within 30 days after each semi-annual period. The report shall be prepared as stated in Condition 28 of the permit dated 10/05/01.	SO2	40 CFR 60.48c(d) and 60.48c(e) 9 VAC 5-170-160 and 5-50-50. Permit dated 10/05/01; Condition 26(e), 28.	Yes	Yes
Boiler operators will be trained. Training will consist of a review and familiarization of manufacturer's operating instructions, at a minimum.	All regulated pollutants	9 VAC 5-170-160 Permit dated 10/05/01; Condition 11.	No	Yes
Daily and monthly natural gas and fuel oil consumption.	SO2	40 CFR 60.48c (g); 9 VAC 5-50-50 Permit dated 10/05/01; Condition 26(d).	No	Yes
A copy of all current air permits will be maintained on the facility premises.	N/A	9 VAC 5-80-860 D; Permit dated 10/05/01; Condition 37. Permit dated 4/9/92; Condition 17.	No	Yes
These tanks are subject to the requirements of paragraphs (a) and (b) of 40 CFR 60.116b only, which require that a record of the dimension and storage capacity of the vessel be kept readily available for the life of the tanks.	VOC	40 CFR Part 60 Subpart Kb - Standards of Performance for VOC Liquid Storage Vessels for Which Construction, Reconstruction, or Modification Commenced After July 23, 1984.	No	Yes
Risk Management Plan. Requires assessment of off-site impacts for worst-case and alternate scenarios, and submittal of a written Risk Management Plan for listed chemicals present in quantities greater than regulatory threshold.	Chemicals listed at 40 CFR 68.130	40 CFR Part 68	Yes	Yes
This is a one-time requirement to offer opportunity for a public meeting to present components of the Risk Management Plan. Meeting must be held no later than February 1, 2000. A certifition letter that the meeting was held must be submitted to the FBI.	N/A	Chemical Safety Information, Site Security and Fuels Regulatory Relief Act	Yes	Yes
Leak Detection and Repair. XXXXXX shall institute a fugitive LDAR per the program described in the attachment to the permit dated 10/5/01. Records shall be maintained at the facility.	VOC/ HAP	9 VAC 5-50-50 and 5-170-160; Permit dated 10/05/01; Conditions 25 and 26i.	No	Yes
The new owner must notify the South Central Regional Office of the change of ownership within 30 days of the transfer.	N/A	9 VAC 5-80-940; Permit dated 10/05/01 Condition 35.	Yes	Yes

(a) The annual update of emissions to the SAPCB will be the record of reporting and report format for this condition (see VAC 5-50-50F).

Exhibit 1: Environmental Regulatory Burden of a SOCMA Member Company

Brief Description of Applicable Wastewater Requirement	Regulatory Citation	Reporting Requirement (Yes/No)	Record Keeping Requirement (Yes/No)
Do not exceed pollutant limits specified in wastewater discharge permit for BOD, TSS, TKN, and pH.	WDP Part I, Section 1	Yes	Yes
Do not exceed pollutant limits specified in wastewater discharge permit for trace metals and cyanide.	WDP Part I, Section 1	Yes	Yes
Do not exceed pollutant limits specified in wastewater discharge permit for OCPSF pollutants.	40 CFR 414 Subpart K, and WDP Part I, Section 1	Yes	Yes
Report results of priority pollutant scan (Note: priority pollutants are listed at 40 CFR 401.15.	WDP Part I, Section 1	Yes	Yes
The facility will maintain a slug control plan	40 CFR 403.8 (f)(2)(v)	No	Yes
The facility will inform the POTW within 24 hours of a wastewater pollutant limit violation, and repeat sampling and analysis, and submit the results of the second analysis within 30 days of results indicating the first violation.	WDP Part II, Section 2 C.	Yes	Yes
The facility will notify the POTW by immediately by telephone, and in within five days in writing, of any prohibited discharge, as defined in the WDP and City of Danville Code Chapter 34. See WDP Part 1, Section 2.D. for required notification content.	WDP and City of Danville Code Chapter 34.	Yes	Yes
Wastewater flows from the following areas must be recorded daily and reported on a monthly basis: Combined flow of Plants 1 and 3 Flow from Plant 2 Total wastewater flow from Parshall flume	WDP Part III, Section 1.	Yes	Yes
Notification of anticipated bypass. If the bypass is anticipated, written prior notice must be submitted at least ten days before the date of the bypass.	WDP Standard Conditions Section B.3.	Yes	Yes
Notification of unanticipated bypass. If the bypass is unanticipated, the facility will notify the POTW immediately by telephone, and in within 24 hours in writing, of any prohibited discharge.	WDP Standard Conditions Section B.3.	Yes	Yes
If wastewater to be discharged is in compliance with all permit requirements, then bypass of the treatment system is allowed, but only for essential maintenance purposes.	WDP Standard Conditions Section B.3.	See WW-9 and WW	See WW-9 and
If wastewater is not in compliance with discharge permits, bypass of the treatment system is prohibited unless it is unavoidable to prevent loss of life, personnel injury or severe property damage, or no feasible alternative exists. (Any discharge of non-compliant wastewater to the POTW, even under the above conditions, will result in the issuance of an NOV).	WDP Standard Conditions Section B.3.	See WW-9 and WW 10	See WW-9 and WW-10
The results of additional sampling conducted more frequently than required by the permit shall be included in the self-monitoring reports.	WDP Standard Conditions Section C.4.	Yes	Yes
The permittee shall notify the POTW at least 90 days prior to any expansion, production increase, or process modifications which results in new or substantially increased discharges, or a change in the nature of the discharge.	WDP Standard Conditions Section D.1.	Yes	Yes
Operating upsets. The facility must inform the POTW immediately upon first becoming aware of an upset that places the permittee in a temporary state of non-compliance with either the WDP or the City of Danville Code Chapter 34., or that may cause problems at the POTW.	WDP Standard Conditions Section D.5; 40 CFR 403.12(f).	Yes	Yes
Maintain continuous pH monitoring reports.	Letter from City of Danville, dated June 1, 1999.	No	Yes
Perform calibrations and inspections of effluent discharge at Parshall Flume and Concrete Pit per written agreement with City of Danville.	Agreement between City of Danville Department of Utilities and XXXXXX XXXXXX dated 10/18/99	No	Yes
Effluent Guidelines and Standards for Pesticide Chemicals Formulating and Packaging Subcategory. Must meet requirements of the Pollution Prevention Alternatives in Table 9 of Part 455; must submit initial certification statement as decribed by 455.41(a), and maintain compliance records. Must also submit certification statement as descibed in 40 CFR 455.41(b) during the months of Juse and December of each year of operation.	40 CFR 455.46	Yes	Yes
The new owner must notify the POTW of a change of ownership at least 30 days prior to transfer.	WDP Standard Conditions Section A.7.	Yes	Yes

BOD = Biochemical Oxygen Demand
NOV = Notice of Violation
POTW = Publicly Owned Treatment Works
TKN = Total Kjeldahl Nitrogen
TSS = Total Suspended Solids
WDP = Wastewater Discharge Permit

Exhibit 1: Environmental Regulatory Burden of a SOCMA Member Company

Brief Description of Applicable RCRA Requirement	Regulatory Citation	Reporting Requirement (Yes/No)	Record Keeping Requirement (Yes/No)
A person who generates a solid waste was defined at 40 CFR 261.2 must determine if that waste is a hazardous waste as described in 40 CFR 262.11.	40 CFR 262.11; 40 CFR 262.40(c)	No	Yes
A generator must not treat, store, dispose of, transport, or offer for transportation, hazardous waste without having received an EPA identification number	40 CFR 262.12	No	No
A generator who transports or offers for transport hazardous waste for off-site treatment, storage, or disposal must prepare a waste manifest. The generator's copy and the signed confirmation copy must be kept.	40 CFR 262 Subpart B and 262.40(a)	No	Yes
Hazardous waste must be properly packaged, labeled, marked, and placarded.	40 CFR 262.30 - 262.33	No	No
Hazardous waste cannot be stored longer than 90 days without a RCRA permit. NOTE: XXXXXX XXXXXX DOES NOT HAVE A RCRA PERMIT AND CANNOT STORE HAZARDOUS WASTE BEYOND 90 DAYS. Wastes stored in containers must meet the requirements of 40 CFR 265 Subpart I. The generator must also comply with 40 CFR Part 265 Subparts C and D, and 265.15.	40 CFR 262.34(a)	No	No
A generator may accumulate as much as 55 gallons of hazardous waste or one quart of acutely hazardous waste listed in §261.33 (e) in containers at or near any point of generation where wastes initially accumulate beyond 90 days...without a permit, provided that 40 CFR 265.171, 265.172, and 265.173 are met.	40 CFR 262.34(c)	No	No
A Biennial Report must be prepared and submitted by March 1 on each even year for the annual period of each preceding (odd) year.	40 CFR 262.41and 262.40(b)	Yes	Yes
A generator who does not receive a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 35 days of the date the waste was accepted by the initial transporter must contact the transporter and/or the owner or operator of the designated facility to determine the status of the hazardous waste.	40 CFR 262.42(a)(1)	No	No
The generator must submit an Exception Report to the EPA Regional Administrator for the Region in which the generator is located if he has not received a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 45 days of the date the waste was accepted by the initial transporter. The Exception Report must contain the information listed in 40 CFR 262.42(a)(2).	40 CFR 262.42(a)(2)	Yes	Yes
Facility personnel must be trained in hazardous waste management procedures relevant to the positions in which they are employed. Training may consists of classroom instruction or on-the-job training. At a minimum, the training must ensure that personnel are able to respond effectively to emergencies.	40 CFR 265.16(a)	No	No
Training must be conducted with the first six months of employment, and followed by an annual review. Training records must be kept demonstrating that training has occurred.	40 CFR 265.16(b) and (c); 40 CFR 265.16(d)(4)	No	Yes
The job title of each position at the facility related to hazardous waste management, and the name of the employee filling each job. A written description of each job title, including the requisite skill, education, or other job title requirements.	40 CFR 265.16(d)(1) and (2)	No	Yes
A written description of the type and amount of initial and continuing training given must by maintained.	40 CFR 265.16(d)(3)	No	Yes
Facilities must comply with the operation and maintenance requirements prescribed in 40 CFR 265 Subpart C.	40 CFR 265 Subpart C	No	No
Facilities are required to have a contingency plan and emergency procedures in place which meet the requirements of 40 CFR 265 Subpart D.	40 CFR 265 Subpart D	No	Yes
If a container holding hazardous waste is not in good condition, or if it begins to leak, the owner or operator must transfer the hazardous waste from this container to a container that is in good condition, or manage the waste in some other way that complies with the regulations.	40 CFR 265.171	No	No
The owner or operator must use a container made of or lined with materials which will not react with, and are otherwise compatible with, the hazardous waste to be stored, so that the ability of the container to contain the waste is not impaired.	40 CFR 265.172	No	No
A container holding hazardous waste must always be closed during storage, except when it is necessary to add or remove waste. A container holding hazardous waste must not be opened, handled, or stored in a manner which may rupture the container or cause it to leak.	40 CFR 265.173	No	No
The owner or operator must inspect areas where containers are stored, at least weekly, looking for leaks and for deterioration caused by corrosion or other factors.	40 CFR 265.174	No	Yes
Containers holding ignitable or reactive waste must be located at least 15 meters (50 feet) from the facility's property line.	40 CFR 265.176	No	No
Non-compatible wastes cannot be placed in the same container, and must be separated from each other during storage.	40 CFR 265.177	No	No
Containers with a capacity between 26 gallons and 122 gallons can meet the requirements of 40 CFR 265 Subpart CC by meeting the applicable U.S. Department of Transportation (DOT) regulations on packaging hazardous materials for transportation.	40 CFR 265.1087	No	No
Information used to determine the applicability of hazardous waste with respect to land disposal restriction regulations must be retained by the generator on site for a period of at least 3 three years from the date last sent to the TSDF.	40 CFR 268.7(a)(6) and (8)	No	Yes
Submit a Form 8700-12 for change of ownership for both XXXXXX manufacturing facility and for the Research Lab.	None.	Yes	Yes
Pay annual fees per regulation (this became effective in 2004).	9 VAC 20-60-1285; -1285	Yes	Yes

Exhibit 1: Environmental Regulatory Burden of a SOCMA Member Company

Brief Description of Other Applicable Requirement	Regulatory Citation	Reporting Requirement (Yes/No)	Record Keeping Requirement (Yes/No)
Alternative Certification (Figure 5.5.3 of the Pollution Prevention Plans). Submit annual record of alternative certification that raw materials, waste materials, etc. that are located in stormwater discharge areas are not exposed to storm water (first submittal due no later than January 1, 2001).	SWP; Part I.D.5	Yes	Yes
Maintain a Stormwater Pollution Prevention Plan as described by the SWP.	SWP; Part III.	No	Yes
Maintain a record of quarterly visual examination of storm water samples in compliance with Part I.D.7 of storm water permit (first quarterly inspection to be conducted 4th quarter of 1999).	SWP; Part I.D.7.	No	Yes
Quarterly inspection reports (Figures 7.3a - 7.3e of the Pollution Prevention Plans). Perform quarterly inspections of spill containment dikes.	SWP; Part III.D.3.d.	No	Yes
Spill Station Equipment and Material Checklist (Figure 7.4 of the Pollution Prevention Plans)		No	Yes
Training. Conduct training, as least annually, to cover regulations, spill prevention, control features and spill response, and the storm water pollution prevention plan.	SWP; Part III.D.3.e. and Part	No	Yes
Certification of No Non-Storm Water Discharge (Figure 5.3.4 of the Pollution Prevention Plans)	SWP; Part III.D.3.g.	No	Yes
Comprehensive Site Compliance evaluation (Figure 7.7 of the Pollution Prevention Plans) to be conducted at least annually.	SWP; Part III.D.4.	No	Yes
The new owner must notify the DEQ of a change of ownership at least 30 days prior to transfer.	SWP; Part II.Y.2.b.	Yes	Yes
SARA Section 302 Hazardous Substance Notification. Requires initial notification of hazardous substances by October 17, 1990.	40 CFR 370.20 (b)(1)	Yes	Yes
SARA Section 311 Supplemental MSDS Reporting. Requires applicable facilities to update information reported under the requirements of 40 CFR 370.20 (b)(1).	40 CFR 370.21	Yes	Yes
SARA 312 Tier II Hazardous Chemical Reporting. Requires reporting of information for all hazardous chemicals stored in quantities greater than 10,000 pounds or any extremely hazardous substance stored in quantities greater than 500 pounds or the threshold planning quantity, whichever is less.	40 CFR 370.25	Yes	Yes
SARA 313 Reporting Requirements. Requires that subject facilities report releases of toxic chemicals in accordance with 40 CFR 372 Subpart B.	40 CFR 372 Subpart B	Yes	Yes
Notification about toxic chemicals. Requires that suppliers of toxic chemicals or suppliers of mixtures containing toxic chemicals make annual notification to facilities to which chemicals are distributed.	40 CFR 372.45	Yes	Yes
Specific Toxic Chemicals Listing. Lists the specific chemicals covered by the requirements of 40 CFR Part 372.	40 CFR 372.65	No	No
Requires reporting as stipulated in the regulation for a release into navigable waters of a substance greater than a reportable quantity, as listed at 40 CFR 117.3.	40 CFR Part 117	Yes	Yes
Requires reporting as stipulated in the regulation for a release into the environment of a substance greater than a reportable quantity, as listed at 40 CFR 302.4.	40 CFR Part 302	Yes	Yes
Premanufacture Notice Requirements. A premanufacture notice (PMN) must be submitted to EPA prior to manufacturing a new chemical substance (one that is not already on the TSCA Chemical Inventory), unless exempt under 40 CFR Parts 720 or 723. NOTE: XXXXXX XXXXXX IS NOT CURRENTLY SUBJECT TO PMN REQUIREMENTS FOR ANY MANUFACTURED CHEMICAL FOR ONE OF THE FOLLOWING REASONS: (1) THE CHEMICAL IS EXEMPT FROM PMN REQUIREMENTS; (2) THE CHEMICAL IS ALREADY ON THE TSCA INVENTORY; (3) THE REGULATION DICTATES THAT THE ENTITY CONTRACTING OUT THE MANUFACTURE OF THE CHEMICAL MUST SUBMIT THE PMN (SEE 40 CFR 720.22).	40 CFR Part 720 and Part 723.	See NOTE	See NOTE
TSCA Inventory Update Rule. Chemical substances manufactured in quantities greater than 10,000 pounds per year must be reported per the requirements of 40 CFR Part 710, unless the chemical is excluded per 40 CFR 710.4 or 710.26.	40 CFR Part 710	Yes	Yes
PESTICIDE REGISTRATION AND CLASSIFICATION PROCEDURES. Pesticides products must be registered in compliance with 40 CFR Part 152. NOTE: XXXXXX IS NOT CURRENTLY DIRECTLY SUBJECT TO THIS RULE. HOWEVER, XXXXXX WILL OBTAIN THE EPA PRODUCT REGISTRATION NUMBER FROM THE CUSTOMER PRIOR TO BEGINNING MANUFACTURE OF ANY PESTICIDE.	40 CFR Part 152	See NOTE	See NOTE
Any establishment where a pesticidal product is produced must be registered.	40 CFR Part 167.20	No	Yes
Pesticide Report for Pesticide -Producing Establishments. A producer operating an establishment must submit an initial report no later than 30 days after the first registration of each establishment the producer operates. Thereafter, the producer must submit an annual report on or before March 1 of each year, even if the producer has produced no pesticidal product for that reporting year.	40 CFR Part 167.85 (d)	Yes	Yes
Labeling. Pesticide products must be labeled in according with Part 156.	40 CFR Part 156	No	No
The new owner must notify the EPA Region III of a change of ownership at least 30 days prior to transfer.	40 CFR 167.20(e)	Yes	Yes
Facility and Aboveground Storage Tank Regulation. Requires that facilities with an AST storing greater than 660 gallons of oil be registered with DEQ every 5 years.	9 VAC 25-91-10	Yes	Yes
Oil Pollution Prevention. Facilities with any single AST with a capacity greater than 600 gallons storing oil are required to maintain a Spill Prevention, Control, and Contingency Plan (SPCCP). The plan must be sealed by an independent PE. (see also SW-2).	40 CFR 112.3	No	Yes
Amendment of SPCCP by Regional Administrator. Oil spills as described at 40 CFR 112.4 must be reported in writing. Based on the details of the incident the Regional Administrator may require amendments to the SPCCP.	40 CFR 112.4	Yes	Yes

Exhibit 1: Environmental Regulatory Burden of a SOCMA Member Company

Brief Description of Other Applicable Requirement	Regulatory Citation	Reporting Requirement (Yes/No)	Record Keeping Requirement (Yes/No)
Amendments to the SPCCP must be made within six months of facility modifications which materially affect the facility's potential for the discharge of oil into or upon the navigable waters of the United States or adjoining shore lines. Such amendments must be sealed by an independent PE.	40 CFR 112.5 (a) and (c)	No	Yes
Facilities subject to §112.3 (a), (b) or (c) shall complete a review and evaluation of the SPCC Plan at least once every three years. As a result of this review and evaluation, the owner or operator shall amend the SPCC Plan within six months of the review to include more effective prevention and control technology if: (1) Such technology will significantly reduce the likelihood of a spill event from the facility, and (2) if such technology has been field-proven at the time of the review. Such amendments must be sealed by an independent PE.	40 CFR 112.5 (b) and (c)	No	Yes
Chemical Weapons Convention Declaration. Facilities that manufacture Unscheduled Sicrate Orgamic Chemcials (UDOCs) in excess of 200 metric trons aggregate or 30 metric tons per year of an individual UDOC containing phosphorus, sulfur, or fluorine must make an initial and annual declaration using the Certification Form and Form UDOC.	15 CFR Part 715	Yes	Yes

EPCRA = Emergency Preparedness and Community Right-to-Know Act

SARA = Superfund Amendment and Reauthorization Act

SWP = Stormwater Discharge Permit

TSCA = Toxic Substances and Control Act

FIFRA =Federal Insecticide, Fungicide, and Rodenticide Act

Mrs. MILLER. Thank you, Mr. Barrett.

Our last witness today is Sean Moulton. He has been the Senior Policy Analyst for OMB Watch since early 2002. Mr. Moulton specializes in environmental information and right-to-know issues.

Before joining OMB Watch, Mr. Moulton was a political analyst at Friends of the Earth. His background in environmental issues and policy analysis is extensive. We certainly welcome you here today, sir.

Mr. Moulton.

STATEMENT OF SEAN MOULTON

Mr. MOULTON. Thank you for the opportunity to testify here today on the Paperwork Reduction Act.

My name is Sean Moulton. I am Senior Information Policy Analyst at OMB Watch, a nonprofit research and advocacy organization that works to encourage a more open and responsive and accountable Federal Government.

OMB Watch cares greatly about the life cycle of government information from collection to dissemination to archiving. Accordingly, we have been involved in each reauthorization of the Paperwork Reduction Act since it was enacted.

I have provided written testimony that I would ask to be included in the record, and I will use this opportunity to summarize some of those points.

Mrs. MILLER. Without objection.

Mr. MOULTON. Thank you. The point I would like to emphasize most is that we must keep in mind the importance of information, the benefits of information. The Paperwork Reduction Act and the discussions that surround it focus primarily on viewing paperwork and information collection, I would say, as a burden. Information has always been the fuel that powers the engine of progress for the government, whether it is for environment, government spending or health and safety regulations.

Eliminating or weakening collections of information to achieve an arbitrary reduction goal, as the PRA requires, Is shortsighted and I would say irresponsible. We began collecting this information to fill a need. While it is reasonable to try to minimize the work associated with that collection, we should not do so in a way that we fail to fulfill the original need.

It is striking that the PRA only mandates disclosure of burden for the collection and not the benefits of what that information achieves. As a result, the debates on PRA are often one-sided. Congress hears from those filling out the paperwork, who are the first to complain, but seldom hears from those who use the information and benefit. The users often know little of PRA.

I would like to highlight one example of the importance and use of information, one that has been raised earlier, the TRI program. As mentioned earlier, TRI has been an enormously successful and sufficient method in promoting significant reductions in pollution. Since reporting began in 1988, the original 299 chemicals that they began tracking have been—the releases of those chemicals have dropped 59 percent. As new chemicals have been added, reductions have continued to be seen. The TRI list in 1998 had grown to 589

chemicals, and in the 6 years that we have had data on those chemicals we have seen 42 percent reduction.

One might think that with a track record like this, TRI would be immune to significant changes or cuts, but as Ms. Nelson testified, the agency is considering significant changes to TRI reporting because of the TRI's demand for burden reduction. Each of the burden reductions being considered by EPA, including the no significant change, we would say represents a significant loss of information to the public. This is burden reduction at any means necessary, burden reduction by reducing the amount or accuracy of information.

In the interest of time, I will highlight some of the recommendations I made in my written testimony. I would recommend that the PRA be refocused as Congress goes forward with another round of reauthorization. The real strength of the PRA is its potential to help government manage its information resources.

Unfortunately, the theme of reducing paperwork no matter the repercussions conflicts with a strong law of managing information resources. I would urge that Congress make appropriate changes to clearly establish that the primary purpose is to improve management of government information.

The first change I would recommend would be to rename the law the Information Resource Management Act or similar title to reflect a new purpose.

I would also suggest that Section 3505(a) be eliminated. This is the section in which Congress has mandated annual burden reduction goals. I am not against reducing reporting burdens, but any burden reduction must be examined within the context of the purpose and use of information. Given the information age in which we live, the growing need to know more, it simply may not be possible to collect the data we need and to reduce burden at the same time.

Congress should rebalance the PRA with less emphasis on burden reduction and more emphasis on filling information gaps and improving the quality and timeliness of the information we collect.

There are legitimate methods to minimize reporting burden without compromising information, and the PRA should emphasize those as well. The most widely noted one would be electronic reporting. Several people have talked about that.

I would also like to make a point about the public access and dissemination under PRA. Under like burden reduction, it has received too little attention. Prior to the 1995 reauthorization, PRA did not even contain a definition of public information, nor was dissemination included in the purpose of the law.

Dissemination of information to the public promotes the use of data. It promotes the improvement of data. It squeezes the maximum amount of benefit out of that data. Without use the information serves little purpose. Many users of the government data currently must resort to the lengthy and laborious process under Freedom of Information Act to obtain their information. Congress should make FOIA a vehicle of last resort. This could be achieved by including a provision in the PRA that requires government agencies to publicly disseminate in a timely manner all information they collect unless that information would be exempt under FOIA.

Finally, I would like to make two points about the politicization of PRA. A major weakness of the Paperwork Reduction Act has been susceptibility to manipulation. It creates a back door for achieving politically motivated goals with regard to the regulatory process. Many believe that OIRA has used its paperwork authority to interfere with substantive agency decisionmaking.

Another problem has been the imbalance of attention that the paper has gotten at agencies from OIRA. I apologize, OIRA is the Office of Information Regulatory Affairs. For instance in 1999, EPA's paperwork burden was less than 2 percent of the total government burden. Yet the agency had six OIRA desk officers there. At the same time, Treasury constituted, as it does now, over 80 percent of the paperwork burden from government but only had one desk officer.

We would recommend that Congress mandate that OIRA assign staff to agencies in proportion with the amount of paperwork burden those agencies produce. We would also recommend that OIRA be required to publicly explain and justify any information collection request that it alters to clients or delays.

I thank the committee for the opportunity to testify here, and I look forward to answering any questions on this issue. Thank you.

[The prepared statement of Mr. Moulton follows:]

Statement of Sean Moulton
Senior Policy Analyst
OMB Watch

Before the Subcommittee on Regulatory Affairs
of the
House Committee on Government Reform

On
Paperwork Reduction Act
June 14, 2005

Thank you for the opportunity to testify today on the Paperwork Reduction Act.

My name is Sean Moulton, and I am a Senior Policy Analyst at OMB Watch, a nonprofit research and advocacy organization that works to encourage a more open, responsive, and accountable federal government. Public access to government information has been an important part of our work for more than 20 years, and we have both practical and policy experience with disseminating government information. For example, in 1989 we began operating RTK NET, an online service providing public access to environmental data collected by EPA. Additionally, we are very engaged in agency regulatory processes, encouraging agency rules to be sensible and more responsive to public needs. Finally, OMB Watch cares greatly about the lifecycle of government information – from collection to dissemination to archiving. Accordingly, we have been involved in each reauthorization of the Paperwork Reduction Act since it was enacted.

The Paperwork Reduction Act (PRA or the Act hereafter) of 1980 (44 U.S.C. § 3501 *et seq.*) did much more than its name implied. The 1980 PRA concentrated wide-ranging power in the Office of Management and Budget (OMB) to control the collection of information by federal agencies and to improve the management of other federal government information activities. The Act was (and continues to be) one of the most far-reaching federal information laws on the books. At the same time, it is one of the least well-known laws on the books.

I. Wrong Focus: Information as Burden

I'd like to take this opportunity to raise some overarching issues about the PRA. The most significant and common of these concerns is the perception of information only as a burden. Even though the Act has much broader scope, the rhetoric of the Act focuses too much on "reduction of information collection burdens on the public."

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Despite its name, it governs much more than paperwork reduction—it is a comprehensive information resources management law, creating the Office of Information and Regulatory Affairs (OIRA) in OMB and directing it to develop principles and guidelines to manage the entire life cycle of government information. This life cycle ranges from the collection of information, through its processing, maintenance, dissemination, to its storage and archiving.

However, most attention and effort is paid to the collecting of information and the OMB paperwork review process. The PRA established an Information Collection Request (ICR) review process, which allows OMB to review every proposal agencies have to collect information from ten or more people or for statistical purposes. The process for submitting an ICR for review is onerous, and the definition of what constitutes an information collection has considerably broadened since earlier versions of the law. The definition of what goes into calculating the burden imposed by the collection is also substantially expanded.

Congress contributed to this focus on information collection when it broadened the scope of what constitutes a government collection of information. For instance, in the 1995 reauthorization, Congress specifically redefined information collection to overturn a Supreme Court decision that had limited the scope of the PRA. In 1990, in *Dole v. Steelworkers of America*, the Supreme Court ruled that OMB lacked the statutory authority to block provisions in the Occupational Safety and Health Administration's (OSHA) Hazard Communication Standard—or worker "right-to-know" rule—which would require that workers be informed about any hazardous substances in the workplace. The court ruled that when the government collected or required the collection of information for the purposes of notifying third parties, such as workers, that this did not fall within OIRA's authority to review as government information collection.

The 1995 PRA explicitly expanded the definitions of both "collection of information" and "recordkeeping requirement," and brought provisions such as this under OMB's purview. The "collection of information" was re-defined as "the obtaining, causing to be obtained, soliciting, or requiring the disclosure to third parties or the public, of facts or opinions by or for an agency, regardless of form or format, calling for ... (i)...identical reporting or recordkeeping requirements imposed on, ten or more persons, other than agencies, instrumentalities, or employees of the United States."

The language used for the definition of "recordkeeping requirement" also specifically incorporated this expansion. The provision characterizes it as "a requirement imposed by or for an agency on persons to maintain specified records, including a requirement to--

(A) retain such records;

(B) notify third parties, the Federal Government, or the public of the existence of such records;

(C) disclose such records to third parties, the Federal Government, or the public; or

(D) report to third parties, the Federal Government, or the public regarding such records.

This change means that these sorts of provisions for third party and public disclosure of safety, health and environmental hazards must go through the same review and justification process as information collections generated by agencies.

The 1995 reauthorization also significantly expanded the definition of "burden." Whereas in the 1986 Act it was defined as "the time, effort, or financial resources expended by persons to provide information to a Federal agency," it is now defined as time, effort, or financial resources expended by persons to generate, maintain, or provide information to or for a Federal agency, including the resources expended for—

(A) reviewing instructions;
(B) acquiring, installing, and utilizing technology and systems;
(C) adjusting the existing ways to comply with any previously applicable instructions and requirements;
(D) searching data sources;
(E) completing and reviewing the collection of information; and
(F) transmitting, or otherwise disclosing the information.

This definition was vigorously opposed by the public interest community as being overly broad—especially (B) and (C)—but this was a provision on which there was virtually no "give" on the part of the business community. The public interest community so strongly opposed this broadening of the burden definition because it potentially allows regulatory costs to be counted as paperwork "burdens."

While the PRA contains provisions intended to improve government management of information resources, the focus has remained on the word "Reduction." In the 1995 reauthorization, Congress established annual government-wide goals to reduce paperwork burden 10 percent from the 1995 baseline for 1996 and 1997, and 5 percent reductions for 1998 through 2001. The simple fact is that while these goals may sound admirable and are certainly aggressive they are also arbitrary and probably unreasonable. No one disputes that the government creates an enormous paperwork requirement for companies and individuals. However, there is no definitive or comprehensive research that indicates that a significant percentage of that burden is unnecessary.

Moreover, there is no science or real-world experience applied to the quantification of a burden hour, the standard of measurement used for quantifying the burden of paperwork. Every agency uses different approaches to deriving its estimate of burden hours. For that matter, even within one agency, it is not unusual to employ different approaches to calculating a burden hour. One key thing to note: burden hours are estimates; they are not based on real-world experience or surveys (which, in turn, would be subject to the PRA). Despite this, common-sense tells us that once an information collection system is in place, the amount of time it takes to collect the information declines dramatically. Yet, the calculation of the burden hour does not reflect this reality. In all probability these burden hours are skewed too high.

It is striking that the PRA only mandates disclosure of the estimated burden hour and not what benefits are derived from the information that is collected or that it is mandated by congressional statute. As a result, the debates over the PRA are one-sided. Those who face the burden of filling out forms and other paperwork are the first to complain that the law isn't doing enough – because that is what is disclosed about the paperwork… the burden. Congress seldom hears from those who benefit from the collection of the information, mostly because they know little about the PRA.

This misconception of information as a burden and the overemphasis on information collection and the reduction of its burden are problematic for several reasons. The most fundamental of which is that it ignores the importance of information, the benefits it confers on those wise enough to collect and use it properly.

I urge Congress to consider efforts to rebalance the PRA so that there is less emphasis on burden reduction and more on addressing gaps in information collections and improving the quality and timeliness of the information that is collected.

II. The Importance of Information

Information has always been the fuel that powers the engine of progress on anything from environment to government spending to health and safety regulations. Eliminating this information to achieve some arbitrary management reduction goal is short-sighted and irresponsible. Government collection of information is needed to help inform decisions and guide action both by the government and by the public. Without information, agencies, officials and the general public cannot be certain what actions should be undertaken and government accountability would grind to a halt.

We must keep in mind that we collect information to fill a need. And while it is responsible and reasonable to take steps to minimize the work associated with collecting information, we should not do so in such a way that we fail to fulfill that need. Information has proven its usefulness to the government and the public time and time again. I would like to take this opportunity to discuss a few examples.

A. Toxic Release Inventory

Probably one of the most noted and publicly successful information programs is the Toxic Release Inventory (TRI) at the Environmental Protection Agency (EPA). In 1986, the same year as PRA's first reauthorization, Congress passed the Emergency Planning and Community Right-to-Know Act (EPCRA). The law came shortly after the Union Carbide chemical disaster in Bhopal, India killed thousands of people followed shortly after by a smaller accident at a sister plant in West Virginia. The TRI program created under EPCRA, endeavors to avoid such accidents in the future by increasing corporate accountability and prevention planning that results from communities that are more informed and involved in the risks associated with dangerous chemicals.

Certain industrial facilities that use any of some 600 chemicals in large amounts must annually disclose: toxic releases to air, land, and water; and toxic waste treated, burned, recycled, or disposed (starting 1991 under the Pollution Prevention Act of 1990). The EPA assembles this information into what was the first publicly accessible, on-line database mandated by Federal law.

TRI is now widely recognized as a valuable source of environmental information for the public, workers, legislators, the press, regulators, investors, and industry. Since the establishment of

TRI, the simple act of publicizing the amount toxic chemicals that facilities release has pressured companies to consistently make significant reductions in the releases of these chemicals. According to TRI Explorer, EPA's online interface for TRI, total releases of the 299 core chemicals that the agency began reporting on in 1988 have dropped 59 percent. As new chemicals have been added to the TRI program, we have also seen those releases drop. EPA reported this year that since the TRI list was expanded to 589 chemicals in 1998, there has been a 42 percent reduction in total releases. TRI has become EPA's premier database of environmental information demonstrating the power of information to promote change and improvements.

One might think that an information collection that has proved so useful and beneficial over the years would be practically immune to rollback. But under the PRA's demand for reporting burden reduction, EPA is in the process of considering significant changes to the TRI reporting. And each of the burden reduction options being considered represents a significant loss of information for the public. The burden reduction ideas include raising reporting thresholds for small businesses or for certain classes of facilities or chemicals; allowing more facilities to file the simpler and less informative TRI Form A; permitting a "no significant change" report if the facility's toxic releases do not differ significantly from a baseline; and switching from specific release amounts to ranges of quantities. Each of these burden reduction proposals would accomplish its goal by sacrificing either the quantity or quality of information collected. This burden reduction at any means necessary – burden reduction by reducing the amount and accuracy of the information reported – is inappropriate.

This is not to say that there aren't legitimate actions that could be taken to help reduce reporter burden while maintaining benefit to the public. However, EPA is not considering these types of options, such as strengthening use of electronic reporting. Such an option would seem most reasonable given the importance of the TRI program and demonstrable progress it has spurred. In a period when the government is continually advancing use of the Internet through e-government and e-rulemaking policies, this seems like an obvious option to explore. In fact, EPA's reporting software for TRI, called the TRI-ME, though still a relatively new effort has already proven successful at reducing burden without eliminating any collection of information.

Despite this, EPA has yet to establish key identifiers to allow industry to submit certain types of information such as name and address only once. Creation of key identifiers not only would significantly reduce reporting burden, but it would also enhance utility of the information collected since the public and government could begin linking disparate data sets based on these common identifiers. The PRA should be breaking ground in these types of constructive efforts to better manage government information collections.

B. Early Warning Data for Tires

Another example of the need for information concerns the lives of families such as was the case with the 2000 Firestone Tire debacle in which faulty tires resulted in 203 deaths and more than 700 injuries. When a Houston reporter broke the story that Ford Explorers with Firestone tires were experiencing sudden tire blowouts then rolling over and killing the people inside, Congress was outraged to learn that an insurance investigator had given NHTSA information about a large number of fatal Ford/Firestone cases in the late 1980s, but to no avail because NHTSA had failed

to investigate. Congressional investigation and follow-up press stories revealed both secret company memoranda and foreign recalls that U.S. regulators were never informed about. In essence, though the government knew about the problem, it did not have enough information in large part because it failed to collect it.

In response, Congress passed the Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act of 2000, which included a requirement that automakers submit information about potential defects to a new NHTSA early warning database that would combine industry knowledge and consumer reports. The system covers more than just tires; it covers all parts of the vehicle that might affect safety. Tires also received special attention with the first improved tire safety standard in more than 30 years. The tire safety rule that NHTSA finally released on June 26, 2003 did require tires to undergo a low-inflation pressure test (seeking a minimum level of performance safety in tires when they are under-inflated to 20 pounds per square inch) and mandate high-speed and endurance tests.

The collection of these new test results combined with other data enables NHTSA to issue warnings, urge additional testing and conduct recalls sooner. The early warning data led to several recalls by Bridgestone/Firestone in 2004 of more than 750,000 tires. The recalls were prompted because data collected indicated that the tires could experience belt detachment similar to the 2000 problem, which can lead to a loss of control of vehicles and possible crashes. Overall, in 2004 the early warning system contributed to an increase in the recall rate of almost 30 percent, 30.6 million vehicles. In the long run it will lead to better cars and tires and save lives. The information now allows the agency to be ahead of the problem, informed and saving lives. Even Bridgestone/Firestone acknowledged this in a August 20, 2004 letter to NHSTA, in which the company explains that the purpose of the recall is "to avoid potential future issues."

III. Information Management

The federal government spends billions of dollars on equipment and personnel to create, collect, maintain, disseminate and share information. It is an ongoing concern of Congress and the public that those dollars should be effectively spent on the information lifecycle. In the name of cutting red tape, we could imperil the collection of information we need in order to protect the public. Instead of a simplistic mandate to reduce the number of so-called "burden hours," we should revitalize the original information *management* aspects of the PRA and study ways to gather all the information we need, at the level of quality and timeliness that we need, in ways that take advantage of modern information technology that has the potential to automate the information collection process and reduce time spent inputting data while simultaneously improving the quality of that data.

The goal of the PRA should not be an overly simplified and crude percentage reduction in paperwork. Congress should make effective and efficient management of information the goal of the PRA. Focus should be placed on identifying government-wide methods to streamline and automate information collection without sacrificing quality and timeliness of information. The 1995 PRA attempted to address some of the issues involved.

Several of the 1995 reauthorization provisions focus on effective use of resources to accomplish agency missions and improve agency performance. The Director of OMB was instructed to develop and utilize of common standards for information collection, storage, processing and communication, including standards for security, interconnectivity and interoperability. Congress added the responsibility for development and utilization of standards in recognition of the critical need for some commonality in interfaces, transparency of search mechanisms, and standardized formats for sharing and storing electronic information.

Agency responsibilities for IRM also expanded. The head of each agency became responsible for "carrying out the agency's information resources management activities to improve agency productivity, efficiency, and effectiveness." Agencies were directed to develop and maintain an ongoing process to ensure that information resources management operations and decisions are integrated with organizational planning, budget, financial management, human resources management, and program decisions and, in consultation with the OMB Director and the Director of the Office of Personnel Management, conduct formal training programs to educate agency program and management of about information resources management.

I would urge the subcommittee to hesitate before being overly critical of the agencies performance in trying to achieve the reduction goals Congress set in the 1995 reauthorization. These targets and any future objectives set under the PRA need to be considered also within the context of the information explosion in our society that increases each year. When the original PRA was passed in 1980 as with the first reauthorization in 1986, the Internet was not even a glimmer in the public's eye yet. Even in 1995, the last reauthorization, we had barely begun to exploit the opportunities of the Internet. Since then we have seen an explosion of applications, and the amount of computing capacity available to individuals and business has grown exponentially. Each year we produce, distribute, and save more information than the year before. Chief Information Officers have become a standard position in many corporations to help manage the expansion of data that companies now must manage. The government is not apart from these trends. Taking into consideration the tremendous growth our society has experienced in the creation of information, the government's fairly stable to low growth in paperwork burden is actually quite surprising. The question should be why the government is not keeping pace in the information age with filling the gaps in information collection; why we cannot do a better, more efficient job of collecting relevant information?

This is the information age we live in, and we continue to develop better and more effective tools for gathering, delivering, organizing and analyzing information. The U.S. government is only beginning to explore these options. In 2003, Congress passed the first E-Government Act, of which agencies only now are beginning to implement.

The TRI-ME software developed by EPA to streamline TRI reporting provides us with a good example. The electronic reporting software has reduced the reporting burden for submitters by hundreds of thousands of hours without reducing the quantity or quality of information at all. The Estimates of Burden Hours for Economic Analyses of the Toxic Release Inventory Program, written by Cody Rice in EPA's Office of Environmental Information in 2002, estimated an even higher level of burden reduction than reported in EPA's 2003 ICRs. A sample of facilities testing TRI-ME estimated a 25 percent reduction in calculations, form completion, and

recordkeeping/mailing activities. The report projected 283,000 hours of reduced burden with just 60 percent of facilities using the program.

As Congress proceeds with reauthorization of the PRA, it should consider sorting out conflicting messages sent by this law and other laws. For example, section 3505(a) of the PRA requires the annual reductions in information collection burdens that I've mentioned earlier. This provision has created an agency culture of limiting the collection of information – even when it is very important to do so. We often hear agency personnel talk about the importance of collecting some information, only to decide not to go forward because of the PRA reduction requirements and the probability that OMB would reject the collection.

At the same time, sections 115 and 116 of the Government Performance and Results Act require agencies to provide quantifiable indicators and measures in assessing agency performance. To properly implement GPRA, agencies inevitably must collect new information. Yet the mandated annual reductions in information collections under the PRA put a damper on this. As a result, GPRA's objective of having publicly trusted performance indicators may be seriously falling short.

This conflict can easily be resolved by dropping section 3505(a) of the PRA. But the conflict raises a more fundamental issue regarding the PRA – its purpose. The real strength of the PRA is in its potential to help government manage its information resources, from collection to dissemination to archiving. Unfortunately the theme of reducing paperwork – no matter the repercussion – conflicts with a strong law on managing information resources. We strongly urge Congress to make appropriate changes in the law, including changing the name of the law from the Paperwork Reduction Act to Information Resources Management Act or a similar title, to clearly establish that its primary purpose is to improve the management of government information.

IV. Information Dissemination and Public Access

Unlike information collection and burden reduction, the issues of dissemination and public access have received too little attention in the PRA. Prior to the 1995 reauthorization, the PRA did not contain a definition of public information, nor was dissemination included the purpose of the law. Dissemination of information to the public promotes use of the data. Without use, the information serves little purpose. Without use, the information collection becomes an exercise in paperwork and bureaucracy. Many audiences can find use for information and the government should encourage all of them to use any data it collects – states, communities, industry, public interest groups, journalists, academics, and ordinary citizens.

Returning to the TRI example mentioned earlier, states and communities regularly use the TRI data to guide further inquires and focus efforts to protect human health. A recent case is Louisville, Kentucky, which by EPA estimates has the unhealthiest air in the southeast region of the United States. Data collected from EPA air monitors throughout the city showed dangerous levels of 18 hazardous air pollutants. Citizens and local officials coupled the monitoring data with TRI information to identify the facilities responsible for the hazardous air pollution. This connection lead to the city's new aggressive air pollution plan, called the Strategic Toxic Air

Reduction (STAR) program. STAR will require industrial facilities that release hazardous air pollutants to reduce their emissions.

The new early warning data example mentioned earlier offers a different lesson about the difficulty of getting access to important safety information. Unfortunately, Department of Transportation has decided to withhold this "early warning" data about auto safety defects, including warranty claim information, auto dealer reports, consumer complaints, and data on child restraint systems and tires. The information represents a potentially powerful tool for the public to hold manufacturers and the government accountable. However, DOT has claimed that disclosure could "cause substantial competitive harm" and therefore the information remains confidential, even from a specific Freedom of Information Act request. The agency made this decision even though similar defect information has been routinely made public before. Without public access the early warning database will warn no one. Public Citizen and other groups are now challenging the policy in court.

Congress has made some positive steps forward on these issues with the PRA since its initial passage. The 1995 reauthorization added language to strengthen opportunities for the public to gain access to government information and developed a framework for improving the management of the federal government's information resources.

The 1995 reauthorization included a new purpose: to "provide for the dissemination of public information on a timely basis, on equitable terms, and in a manner that promotes the utility of the information to the public and makes effective use of information technology." This theme is indicative of a significant change in thinking about the purposes and uses of government information. The last PRA reauthorization also included a definition for public information, which read "any information, regardless of form or format, that an agency discloses, disseminates, or makes available to the public." While this may seem like a small item, it should be noted that the original 1986 Act did not contain any definition of "information"—public or otherwise. This demonstrates the serious lack of recognition of the public nature of government information that has hindered government over the years. As Congress moves forward with a new round of reauthorization, this language needs to be expanded. Currently the definition is limited to information upon which affirmative agency action has been taken.

The most important aspect of the 1995 definition language was the phrase "regardless of form or format." In this phrase, the Act laid down as a fundamental principle that it does not matter whether "public information" is print, electronic or otherwise (e.g., microfiche); the requirements for dissemination and public access will be the same. As the government began conducting more of its business electronically, Congress recognized the importance of maintaining a level of access to this, and future, format for information. This language (echoed in the responsibilities of the Director of OMB) ensures not only current access but also—as it is reinforced in agency records management responsibilities for archiving information maintained in electronic format—ongoing access to historically (and otherwise) valuable data and information.

The last reauthorization also gave the Director of OMB the added responsibility to provide direction and oversee "agency dissemination of and public access to information." Agency responsibilities also expanded for information dissemination and provision of public access.

Under the earlier versions of the PRA agencies had no direct responsibilities—and hence no mandate and no incentive—for information dissemination. Provisions under section 3506 not only require each agency to "ensure that the public has timely and equitable access to the agency's public information" but also lay out some critically important principles. Unfortunately, this section only addresses what agencies should do as it disseminates public information. It does not mandate public access to government information.

As Congress goes forward with reauthorization, the issue of public access must be taken further and established more firmly. The Freedom of Information Act, a powerful safety net in requiring disclosure of government records, should become a vehicle of last resort in the Internet age we live in. Congress should modify the PRA to include a new and innovative provision that creates an affirmative responsibility for agencies to publicly disseminate, in a timely manner, any and all information collected by government agencies except for information that is exempt from disclosure under FOIA.

In the 1995 reauthorization Congress mandated the creation of the Government Information Locator Service (GILS) to assist agencies and the public in locating information and promoting information sharing and equitable access by the public. However, the legislation only required a GILS to "identify the major information systems, holdings, and dissemination products of each agency" and failed to require the program to provide access to the information. Moreover, GILS has been by-passed by the ubiquity of the Internet and the growth of information on agency web sites. Congress should revise the GILS program, building on the E-Government Act, and mandate creation on a public access system that allows the public to integrate information and databases from multiple programs and agencies.

It is time for the United States to have a law that requires public access to government information – and the PRA is the best vehicle to make that happen.

V. Politicization of Paperwork

Another concern about the PRA has been its susceptibility for manipulation by administrations as a backdoor for achieving politically motivated goals with regards to the regulatory process. With oversight authority residing at OMB, which is a political office of the White House, concerns have been raised that PRA can be too easily used as a tool to force agencies to revise regulatory requirements or tactics by the disapproval of its paperwork. Given the amount of time and resources OIRA devotes to little else beyond paperwork reduction goals and a form-by-form review process, these concerns are well founded.

Many believe that OIRA has used its paperwork authority, in combination with regulatory review powers granted by executive order, to interfere with substantive agency decision-making about policies and programs. Jim Tozzi, who worked as a Deputy Director at OIRA during the 1980s, acknowledged this to the *Washington Post*: "I have to plead guilty to that. The paperwork is a way in, you know?" We would urge Congress to discourage this misuse of the PRA by requiring OIRA to publicly explain and justify any information collection requests it alters, declines or delays. These explanations should be published in the *Federal Register* as well as compiled and reported annually to Congress.

Moreover, OIRA has historically focused greater oversight and review on the paperwork of agencies such as the Environmental Protection Agency, the Department of Housing and Urban Development and the Occupational Safety and Health Administration than it did on the paperwork of others (such as the IRS). Agencies such as EPA, USDA, DOL, HHS, DOT, and Dept. of Education have a disproportionate number of OIRA desk officers overseeing their work compared to the amount of paperwork they actually produce.

For instance, the USDA's 1999 paperwork burdens accounted for 0.9 percent of the total burden imposed by government paperwork, yet six of 34 desk officers at OIRA (18 percent) were assigned to the agency in 2001. Similarly, EPA's paperwork burden consisted of 1.7 of the total government paperwork, yet it also has six desk officers overseeing its work. In contrast, the Treasury Department, which constituted over 82 percent of government paperwork burden, only had one assigned desk officer. (Data based on GAO FY 1999 estimates and the list of OIRA desk officers' assignments as of October 15, 2001.)

We would recommend Congress eliminate this imbalance of attention by mandating in any PRA reauthorization that OIRA must assign staff to agencies in proportion with the amount of paperwork burden associated with each agency.

Additionally, Congress should empower the public to know more about OMB's actual implementation of the PRA, to make sure that OMB is not using the information clearance process as "a way in" to distorting regulatory priorities. OMB is required by law to maintain a docket room for information clearance decisions and related records, which it does do. That docket is only available, however, in OMB's offices here in Washington, D.C. OMB's PRA decisions have enormous consequences for the entire nation, not just the people of Washington, D.C., so people outside of Washington should be given access to those records. We are not calling for anything innovative or even difficult to do; right now, most federal agencies, in compliance with the E-Government Act, maintain Internet-accessible versions of their rulemaking dockets, and people all over the world can download documents from those dockets and hold the agencies accountable. OMB should do the same. We would also recommend that OMB link the online disclosure of its rulemaking activity with that of the PRA activities since many of the actions are related.

We would also urge Congress to refrain from attaching to any PRA authorization non-germane provisions. Often, an important and broad government-wide bill, such as a PRA reauthorization, can attract numerous amendments and riders that deal with unrelated, or even vaguely related, issues. For example, there has been great attention given to the Data Quality Act that was passed as an appropriations rider in 2001. We have created a website providing updates on implementation of the law at http://www.ombwatch.org/article/articleview/2668/. In monitoring the law, we have been surprised to see the expansionist approach OMB has taken to interpreting this rider than was never debated in Congress. Without doubt this rider has become a highly controversial law. One issue that has emerged from industry is whether data challenges filed under the law are judicially reviewable. We strongly urge Congress not to add any provisions that make DQA challenges reviewable in a court of law.

VI. Conclusion

The PRA has the power and potential for being a useful law to help agencies better manage information and to ensure greater public accountability. To fulfill this potential, the next PRA reauthorization needs to move the executive branch of the federal government further into the information age with stronger requirements and focus on more effective use of information resources, as well as improved commitments to widespread dissemination of information and meaningful public access.

Specifically, we have urged Congress to:

- Rebalance the PRA with less emphasis on burden reduction and more on addressing gaps in information collections and improving the quality and timeliness of information collected.
- Eliminate section 3505(a), which contains specific annual goal for burden reduction.
- Rename the law to Information Resources Management Act or a similar title to reflect a shift to effectively managing the information resources as opposed to blindly reducing government paperwork.
- Put on the focus on reducing unnecessary paperwork burdens. This can be done by requiring common identifiers within and across agencies so that e-reporting and public access is easier and more efficient to accomplish.
- Public discussion of paperwork burden should be linked to public benefit derived from the collection. Moreover, if the information is mandated by Congress, it should be so noted.
- Include a provision that creates an affirmative responsibility for agencies to publicly disseminate, in a timely manner, any and all information collected by government agencies except for information that is exempt from disclosure under FOIA.
- Revise the GILS program and mandate it serve as a public access system that allows the public to integrate information and databases from multiple programs and agencies.
- Require OIRA publicly explain and justify any information collection requests it alters, declines or delays.
- Require OIRA to develop and maintain an Internet-accessible version of its information collection docket, including downloadable versions of documents exchanged during the PRA clearance process. And insure this online docket is linked with the regulatory review docket OMB maintains.
- Mandate that OIRA assign staff to agencies in proportion with the amount of paperwork burden associated with each agency.

I sincerely thank you for the opportunity to address this Committee. Chairman Miller and members of the Committee, I look forward to our dialog and your questions on this issue.

Thank you.

Mrs. MILLER. Thank you very much, Mr. Moulton. I thought your remarks were interesting, all of you. I am not sure quite where to start. A lot of interesting testimony here today.

My personal thought is one of the filters we need in order to look at the PRA again is a good, clear, analytical analysis, I think, of the cost benefit of not only the regulation itself but the paperwork requirement that we have for collecting all of this data and what we are going to get out of it.

It has been interesting to me, as the Chair of this committee, and some of the different hearings that we have had. You have had Small Business Association testifying that the regulatory burden that the government has placed on small businesses, about $7,000 per employee, just to comply with government regulations, which is quite a bit of money, a little bit of change in your blue jeans, I think. You hear the National Association of ufacturers say that with our regulatory burden that we have, the structural costs of our manufactured goods here in our country are 22 to 23 points higher than any of our foreign competitors, including Canada, what have you, principally based on the regulatory burden that we do place on them.

I was interested to hear Mr. Barrett talk about 70 percent of your group are small businesses. You mentioned—I was listening to the one example you gave where they had 98 different forms they had to fill out from State and Federal Governments about the Toxic Release Inventory, which is something this committee hears quite a bit about as well.

Is there an ability now—I think this is to Mr. Barrett and Ms. Nelson—is there an ability now for agencies to file online with the Toxic Release Inventory, where they could report online for the Federal requirements as well as the States? Is that one of the things that you have done?

Ms. NELSON. There is. As I have mentioned, we have something that is called TRI-ME, it is the Toxics Release Inventory Made Easy software akin to TurboTax, which allows somebody to walk through the report and be prompted for the correct information. Last year we had about—almost—over 80 percent of the TRI forms come in electronically. The numbers keep getting higher and higher each year. So we are seeing great success there.

But what is more important is the example I just mentioned in my testimony where the current law requires a facility to submit two reports at the same time to a State and EPA. Keep in mind that law was passed almost 20 years ago when things came in via paper. Under an agreement with four States, with Michigan and South Carolina, Virginia and then Indiana added to the mix, those reports that are being submitted now, that are due July 1st, the facilities in those States have the option to say when I submit this report it counts as my State submission, which means when EPA gets it we automatically take that information, and using our exchange network, a network we are using to share information with States and tribes, we automatically feed that information back to the States.

As to why that is significant, Representative Brown-Waite mentioned that oftentimes the forms are different. So even though it

is the same law that requires the submission of the information, States may change the forms and add information to it.

We think with the States getting this option they will be less likely to do that because they won't have to build their own information systems. They won't have to build their own electronic systems that have to authenticate and identify and receive those reports electronically, which means there will be more standardization between the States and the Federal Government.

Facilities submit the report one time, and it's much easier to reconcile those reports when there are errors. And often there are errors that come in from the facilities. So we think it is a real streamline process that benefits everyone.

Mrs. MILLER. I am not surprised to hear Michigan is one of the States on the leading edge there with technology. They always weren't many times in the area.

Ms. NELSON. They are one of the leaders in the area all the way around. So we thank you.

Mrs. MILLER. Mr. Pizzella, from the Department of Labor, you mentioned in your testimony, you said that you had identified unequivocally some of your key goals. You had said that your Department had identified 12 different initiatives to reduce burden. I wonder if you could give us one or two specific examples of what some of those 12 initiatives are and what kinds of goals you are hoping to achieve with that and what you are—perhaps an example of some of your best practices with those initiatives, if they are working?

Mr. PIZZELLA. Sure. We have an example of using technology and prove how the public does business with the Department in our initiative on e-grants. The Department's e-grants initiative is an enterprise-wide response to the President's management agenda for an electronic government by streamlining and automating the application process for Federal and grant programs.

Previously, the DOL agencies used it for a variety of processes, some automated, some manual. There was no central depository in the Department, and we decided to put our arms around it, make it a little bit unified. We are currently implementing that in an effort to eliminate redundancy and disparity of data collection that takes place. We hope to improve the efficiency and simplify the application procedures. That is one that we are in the process of implementing. It also has governmentwide implications, because some of my colleagues are involved in that same effort.

Another example is the Bureau of Labor Statistics. They have a quarterly consensus and wages program. It also reports to the Federal Employment in Wages. I guess the acronym, for those of you who follow that, is RFEW. Also BLS has an initiative to again simplify this process by going from manual to automated. A collection in the past has been very paper intensive, very manual, and they have now been pursuing an automated one in which Federal agencies are very responsive and also the private sector implementing that. Those would probably be the two best examples I could cite right now for the Department.

Mrs. MILLER. Thank you. Talking about paperwork extensively, I guess that leads me to my next question to Mr. Matthews. You indicated that 65 percent of the burden in your Department is prin-

cipally from truck drivers trying to monitor from their logbooks, I suppose, what their time is on the road and whatever information that you are gathering from there.

I heard that an estimate of the burden in order to fill out a logbook was 3 minutes, and you had determined that it should really be 6 minutes and that the truck drivers might actually tell you it is actually 10 or 15 minutes.

I am not sure if any of that is actually true, having talked to some of the truck drivers that I know. But is there a way electronically to—I mean, if that's a huge majority of the burden that you have in your Department, is there a way to use an electronic keyboard? And when you do get the information currently in a paper format, how is it transmitted from the chicken coops back to you?

Mr. MATTHEWS. Starting with the first part of the question, Madam Chairwoman, if I could, the use of electronics is done for hours of service in other modal operations. For instance, I mentioned Federal railroads collects hours of service electronically from railroad and conductors. Certainly that technology is extensible to other modes of transportation.

The Department of Transportation has looked at using electronic collection in submission of information in the other modes. In some cases the people responsible for doing the paperwork submissions would prefer not to have electronic submission, but rather continue to fill out logbooks for whatever particular reasons that they seek.

For the hours of service that you asked about, the Department of Transportation currently has an open rulemaking going on to ascertain public comments about the revision to that rule. So we look forward to comments from the public and will use those comments to revise, amend and republish that particular legislation.

Currently, those paper records are sent in manually to the Department of Transportation if summarized by or collected by companies and then submitted to the Department of Transportation. That is true for all hours of service submissions, including pilots, who also have a similar requirement to log the number of hours that they are flying aircraft.

Mrs. MILLER. I see. The rule you are talking about, that is the one you testified that is coming out in the fall of this year?

Mr. MATTHEWS. Yes. It is due out September 30th of this year.

Mrs. MILLER. All right. I will at this time recognize the ranking member, Representative Lynch for his questions.

Mr. LYNCH. Thank you. Again, I thank you for your testimony. I think, Madam Chairwoman, I have an initial question that sort of came out through the GAO report. I just wanted to ask Ms. Koontz and also Mr. Moulton, because you both sort of brought it up in your remarks.

One of the 10 standards that we have within the PRA, I think it's standard No. 9, says "the collection should use effective and efficient statistical methodology." In the GAO report it says that the method that we are using within OMB to measure the burden that we are trying to reduce, that is limited in itself. So we are counting up all these billions of hours? It sounds like people in America do nothing but paperwork. But based on the assessments I have heard this morning, maybe we don't want to reduce paperwork. We will have massive unemployment.

But, really, can you sort of give me a fix on the accuracy on the way we are measuring burden? Because there seems to be a big swing here. It either takes 15 minutes or it takes 8 hours, same thing. They have sort of a wide range of possibilities there.

Is there a way that we can tighten this up to say this is how much time it is taking, and the idea here, if we do this right, this is what our reasonable expectation should be in terms of reducing a certain amount of paperwork?

I was just trying to get my arms around that whole part of this. You know, how much of this is overstated and what is really accurate here? Ms. Koontz.

Ms. KOONTZ. We didn't look in depth at agency estimation methodology, but we do know from studying this for a number of years that the burden estimates are just that, they are estimates. There isn't necessarily a consistent way of measuring this from agency to agency. So we always view the burden estimates as having a number of limitations.

As I said in my statement, it's probably OK to use them as an estimate, but you have to keep in mind what the limitations are.

I understand that IRS, for example, has gone through a lot of work. They are not here today, but they have gone through a lot of work to actually refine their burden estimation methodology. You may have heard from them in the previous hearing that the subcommittee held.

Efforts like that might be helpful. I think they have to be balanced, however. You could spend a lot of time and money deciding what number to put on this. It doesn't necessarily then actually reduce the burden of anyone who is actually reporting. We just have a better number. So I think, yes, we maybe need to do more than the actual burden is. We have to balance that with, also, efforts to make sure that we have fewer people filling out less paperwork.

Mr. LYNCH. That is fair enough. Thank you.

Mr. Moulton.

Mr. MOULTON. Yes. I think this is certainly a case, as you have categorized, of fuzzy math. The burden hours are generated from a very complex equation. It's not based on actually surveying, anyone actually filling out the paperwork.

Very often the paperwork burden hour is generated initially. Common sense would tell us that as you continue to refile you are going to see a significant reduction in how long it takes you to fill out that paperwork. But we often don't see in a lot of the burden estimates of that level or that attribute taken into account.

But I agree that what we really need to focus on, regardless of the fuzzy number, I think, is whether or not the burden is useful, whether or not it provides us with enough information or important enough information that regardless of the burden we are doing it as efficiently as we can. It is taking as long as it takes. We are going to see a range of hours it takes people. Some people fill it out faster than others. I think what we need to focus on is, is the information important and useful to us?

Mr. LYNCH. All right. Thank you. I agree. As I see it, you know the standard that could probably be most helpful is indeed just that, that we are not gathering needless information or information that has low utility at the end of the day, as opposed to something

that I do believe is important, which is if people are dumping chemicals, you know, toxic substances out the back door of their factory or releasing that into our treatment systems, they should probably report that to the general public. We shouldn't limit the access of the public to that type of information.

Ms. Nelson, you have testified that the EPA will, I don't know if it is this summer or later this year, introduce a couple of measures to make it easier. I am concerned that maybe some of the proposals would have an effect of eliminating access to important information.

For example, one option, at least discussed, I am not sure if it is part of this proposal, would raise the reporting thresholds for small to medium-sized businesses. That may sound good, but what they intend to do, I think, if I am reading it correctly—say there are two businesses that emit the same quantity of toxic chemicals but one is a larger business while the other is a smaller business, under the approach you are suggesting the larger business will have to report its toxic chemical releases, but the smaller businesses will not?

While the other is a smaller business and you are suggesting that the larger business will have to report its toxic chemical release—and I'm not sure of that. Because I think, in some cases, it has no bearing on the amount of damage this caused; and the concern I have is that the public will only find out about the toxins released by the larger company. That is not necessarily a good thing, in my estimation, at the end of the day; and I wonder if you could comment on that.

Ms. NELSON. Sure. This year, I did say we will have two proposed rulemakings. The reason we decided to have two, we based it on stakeholder interest that we had a couple of years ago and decided that some of the changes we could make were relatively minor in nature and that we should process those a little faster. In fact, we put those out for comment last January. We received 30 comments on an EPA TRI package, which is pretty miraculous; and we're moving forward with those. Those changes are really eliminating duplicate information that was being collected, and we felt we could use our enterprise architecture to collect the information one time and use it for multiple programs. That was one rule.

The rule you're referring to, sir, is the more substantive burden reduction rule; and, quite frankly, we have not made any decisions yet internally within the agency as to what will be included in that rule. I did mention one option we are looking at is no significant change option. But what you're referring to is changing the thresholds, and we have not made any decisions within the agency as to whether we would do that or not.

The reason we are pursuing in all likelihood one of the options, the no-significant-change option, is we have often heard from industry that though there are changes, their releases change very little from year to year, which is why Mr. Barrett's number about the estimate being so high for one particular industry is a little surprising, although it just may be an anomaly in one industry.

But we are proposing the no-significant-change option because that way we can reduce the burden on industry if, in fact, things are generally the same but still provide the information to the com-

munity. You've touched on a very important point with the TRI program. It is not simply a matter of the agency getting the information for its use, but the TRI program started out as a community right-to-know program. The purpose was for citizens to know what is happening in the community.

So we're walking a very fine balance with these burden reduction rules of how do we eliminate redundant, duplicative information, maybe information that isn't really needed or used by anyone, with the fact that many, many people across the country want to know what is happening in their community. So we are really trying to focus not on reduction of information to citizens but where can we still provide the same level of information to citizens but reduce information that might not be of use to the consumers of the information, or information we can provide because we have it from other sources.

Mr. LYNCH. I know you said it is not final, but I don't think that asking the information from a smaller company is regarded as redundant just because we are asking for the same information from a larger company.

Ms. NELSON. No, it would not be. As I said, that proposed rule is not out yet, so what you're suggesting there is not something that is being considered by EPA.

Mr. LYNCH. That is good news. So we are not going to assume that a small company doesn't have to report just because they're only polluting a little bit?

Ms. NELSON. That is correct. That is correct.

Mr. LYNCH. The other—Madam, should I come back for a later round?

Mrs. MILLER. Go ahead.

Mr. LYNCH. Another option that I have heard of is for changing the program to raise the reporting thresholds for certain chemicals or certain types of facilities that represent a smaller portion of Nationwide emissions so that, because they're a smaller proportion, even though their amount might be significant but because of a Nationwide emission level they're only a small player in that.

Again, I have a similar concern about the impact on a local neighborhood. A very small company that turned out to have a leak in one of their petrochemical storage tanks, it leaked out into the neighborhood, and now I have a lot of young women with lupus and young people with cancer, and there are all kinds of chemicals under their homes. A small company wouldn't have come up on anybody's radar screen, and is probably a very small percentage of emissions Nationwide and contamination Nationwide but an enormous and tragic impact to a very small community. So just concerned about whether or not that proposal, in doing a proportion of the analysis nationally, whether that is an effective way to limit polluters.

Ms. NELSON. I don't think you'll see a proposal like that either.

Mr. LYNCH. That is great, Madam. I yield back, Madam Chairwoman.

Mrs. MILLER. OK, I recognize Representative Brown-Waite.

Ms. BROWN-WAITE. Thank you very much, Madam Chairwoman.

I remember the old cartoon where it says we have met the enemy, and it is us. So I would ask each of the chief information

officers, what can Congress do in conjunction with your agencies to reduce the burden imposed as required in the various statutes?

And I would ask a second question; and that is, have you ever gone to Congress to say, you know, while you have asked us to collect this data, we really don't use it for anything and don't see any real future use for it?

So have you been proactive in helping to reduce the paperwork by asking for some relief? And I will start with Ms. Koontz.

Ms. KOONTZ. Was that a question for the chief information officers.

Ms. BROWN-WAITE. Yes.

Ms. KOONTZ. I'll pass to a chief information officer then. If you want me to come back and talk about some of the things that GAO believes Congress can do, I'll do that as well.

Ms. BROWN-WAITE. I will ask Ms. Nelson.

Ms. NELSON. In terms of your first question, what can Congress do to help reduce the burden, one of the things I would ask is perhaps we have a dialog about the benefits of using technology today versus when the law was first passed.

I know there are some that are reluctant to say simply submitting a report electronically is not really a reduction in burden, but I think there are things going on today where in fact the use of technology can be a tremendous reduction in burden. One of them I alluded to, things like creating turbo-tax-like systems.

But the second is—let me give you an example. For instance, we currently have a situation today where under the current Paperwork Reduction Act we would have to submit an information collection request for a situation we have where a safe drinking water program needs additional information from the States. We generally are responsible and we are made aware from the States of violations in drinking water. We get general information about those violations. We don't get specific information on the contaminants.

Both the Safe Drinking Water Association, the association that represents all safe drinking water administrators across the country, and EPA want to share this information so we can more effectively manage a program. But getting this information from the States would require an ICR, which would be about a 2-year process. That is a significant burden on taxpayers to put that through the process when in fact the States are voluntary willing to share that information. They want to give that to EPA.

Using the technology that we have in place, this exchange network that we're building, this is very simple computer-to-computer communications because they have the information already. The States have it. They collect it. This is simple computer-to-computer communications with really a few seconds worth of computer time to share the information, but it will take us 2 years to process that information collection request, just to get that information when the States want to share it with us. I think as we look to burden in the future, we need to think a little bit differently about situations like that and how technology can help us.

In addition, you know, to answer your second question, how we approach Congress, I would very much like to come to Congress in the future on this TRI issue.

Because, for instance, that example I gave you, the law currently says a facility shall report simultaneously to a State and EPA. We may be stretching the law a little bit here with what we're doing, although we think we're on safe grounds because when a facility submits that report to EPA they are saying this constitutes my State filing as well. There may be some who question whether that is legitimate or not, but we felt it was important to demonstrate the fact that technology exists today that allows a facility to submit one time and we can automatically get that or within 24 hours get that information back to the States with a huge savings to taxpayers at the State level because they don't have to create duplicative systems in 50 States to collect that information. That didn't exist when that law was passed almost 20 years ago.

I think they're the kinds of things we have to take into consideration. So we wanted to demonstrate the fact that we can do that, and we would like to come back to Congress as that is an example of the kinds of things we can do in the future.

Ms. BROWN-WAITE. If I could just ask a followup question of Ms. Nelson, can you think of one report that you're aware of that your agency has—and I'm going to add this to the list for the others, too—one reporting requirement that your agency has that you know that when you all get these reports they get filed away in a box and probably no one has ever looked at them?

Ms. NELSON. I can certainly speak from some of my State experience. Let me say that, because I did spend 14 years in a State Environmental Protection Agency, in the environmental field the vast majority of all environmental reporting happens at the State level, not the EPA. EPA gets its information then from the States, which get it from the facilities.

In a particular situation for discharge monitoring reports, we received 60,000 of those a year in the State of Pennsylvania. Only about 25 percent of those ever made it into an information system because of the volume. We could not afford to pay staff to do all the data entry to get those into an information system; and, quite frankly, if they're not in an information system, the likelihood that you're examining all of those is pretty slim. So, yes, I would say a good percentage of those may have been eyeballed but certainly not the kind of analysis we're doing.

I will point to the chairman's State once again, though, with funding from EPA, the State of Michigan has last year became one of the first States to fully automate the submission of those discharge monitoring reports from facilities fully so that the monitoring data goes from the facility to the State and into EPA's information systems. That is a huge success.

Because that program that collects those discharge monitoring reports—that is the system which is called the Permit Compliance System—is the second-largest information collection in the entire country. We may rank sixth in terms of agencies, but that particular collection itself for the PCS system is the second largest in the Federal Government, second only behind the tax collection, the IRS tax collection. So that demonstration which is real, not just a pilot demonstration for the State of Michigan, is one that we're looking to replicate across the country and for Michigan alone has saved

hundreds of thousands of dollars in that agency and resulted in much higher quality today that we can use and analyze.

Ms. BROWN-WAITE. Mr. Matthews.

Mr. MATTHEWS. What can Congress do to help reduce the paperwork burden working with ICIO? I do believe looking to technology and how it can be employed would be useful.

The fact of the matter is, it is my opinion in the Federal Government that agencies have a stove-pipe requirement. They have vent systems based in that stove-pipe. Perhaps it is time to take a look at best practices horizontally in organizations, not just, say, in DOT but DOT and EPA, and how do we leverage them and, as Ms. Nelson mentioned earlier, reach out to State and local agencies so that we can consolidate governmental reporting of information across the government. I do believe that it is time to have a conversation about how technology can help do that.

Have we at the DOT come to Congress requesting relief? I do know that we come up here frequently asking for clarification on laws that have been proposed and what data needs to be collected. We also come to talk about our intention in collecting the data in seeking comments. But, typically, the agencies themselves would engage in that conversation. The departmental PRA responsibility may or may not be aware of that conversation that has gone on. So I do think that DOT does come up to have conversations. Perhaps establishing a centralized checkpoint on those conversations would be useful.

Then, do we have any stuff in the box that we don't take a look at? I promise you if I was aware of it I would be seeking an end to it with some dispatch. As a citizen who is loath to fill out any single piece of paperwork to tell anyone about me or my family, I would pursue that with a vengeance; and I would encourage anyone, if they're aware of it, to let me know and I will go after it at the DOT.

Thank you very much.

Mr. PIZZELLA. Thank you.

Let me first say that my colleagues, Kim and Dan and myself, we through the CIO Council work to coordinate our efforts in the executive branch to try to push e-government initiatives and reduce sort of the manual processes that have been in place for years and move toward a more electronic processing of information and so forth.

I thought about your question about how people read these reports, and what bounded in my mind immediately is how many times I call an agency head in the department where my office is reviewing a submission for Congress; and I will say, you know, I saw something in here and I'm wondering if you think this might need to be clarified a little more before we send it up. And I on more than one occasion have heard that comment, which report is that? And I'll tell them the report; and they will say, nobody reads that anyway. So I think there is some skepticism on our end of the reports being read by anybody, whether it is Congress or the citizens in some cases.

What can Congress do regarding PRA? I guess they could maybe consider a little bit more the PRA implication of laws they're pass-

ing and maybe working in conjunction with the departments that are most affected by that.

Last, you should know and you probably do know this, that in the agencies when there is internal debate about whether or not this report may make sense that we're providing to Congress or this report is necessary, the very phrase "Congress requires" is sort of a debate-ending sentence. In a discussion of people, many of them very talented and capable professionals within the Civil Service structure, who are questioning why we're doing X, Y and Z and somebody says, look, Congress requires this, it sort of drives them to complete the project, make the submission on time, try and sort of take a thorough review and try to make an argument back to Congress.

I guess my final suggestion would be that perhaps together we can work some type of agreement, maybe even a sort of reverse data call where Congress asks the agencies or departments to tell us which reports you think are probably least useful to provide and maybe we can have an honest dialog. I suppose we have to coordinate amongst the various parts of the executive branch, we have to coordinate on things like that, but I bet there is a font of information there.

Ms. BROWN-WAITE. Thank you very much.

Mrs. MILLER. One thing I guess would I say, we certainly want to encourage you all to be extremely creative as much as you know you can, as you say if you know of a report you would be after it. But maybe you do know of some reports, as you think about it, that aren't being read; and of course utilizing technology as well is absolutely critical as we try to move away from some of this paperwork.

My job since I came to Congress has almost been administrative in nature. At one point in my career I was a county treasurer in my county. I can remember going in there my first week. We were trying to do an operational audit of all the different paperwork. They were reconciling all this. We are the third-largest county in all of Michigan. We were reconciling all the bank books. They had their little lights on with their pencils. Unbelievable, quite frankly.

But I remember this huge stack of paper in this closet, and they were—you watched them every other day moving it off to somewhere. I don't know where they were moving it to. And I said to this woman, what are those reports? Well, I'm doing this and this and this. Where do they go to and who reads them? And she said, I really don't know. I said, we are just not going to do that anymore. And she said, we can't do that because "they" will be upset. I said, who do you think "they" are? You are looking at "they." We're not doing that any more.

So I guess I would simply encourage you to all be as creative as you can, and I would be looking for some specific instances or recommendations from any of you. I'm sure this committee will find very fertile ground here on things that you think require some legislative initiative, but oftentimes I think it can be in the rulemaking, promulgating rules to eliminate some indicia requirements and forms.

Again, I think this subcommittee and entire committee would be very receptive to working with you in those regards. You live it every day. We have a lot of other things we are trying to focus on

here, but I think we would be very receptive to listening to some specific recommendations on what Congress can do to help you.

I have a question to Mr. Barrett. I think I may have cut you off. Do you have any particular response to Ms. Nelson from the EPA about some of the different comments she was making about compliance and what your industry's experience has been and if you have any comments on whether that's being helpful or not.

Mr. BARRETT. Thank you very much.

I think the question that you posed was with respect to the TRI reporting. I think SOCMA members—SOCMA folks have canvassed their membership and there is a lot of support for what EPA is doing in terms of automating the TRI reporting and that is certainly a step in the right direction. It is my understanding that EPA claims a 25 percent reduction as a consequence of electronic reporting, but, in actuality—and I've seen this myself within the ocean realm primarily—the vast majority of the work that goes into completing forms that goes into all this paperwork happens before you ever pick up a piece of paper or ever sit at the computer. It is having meetings, pulling the information together, doing a lot of calculations.

So in the particular instance of the TRI report that was mentioned in my testimony, the individual indicated that in that company it took 250 hours to complete the TRI requirement but 10 hours to do the actual paperwork. So there is a lot of background work that goes into actually developing that piece of paper.

That is something that needs to be borne in mind, and that carries through to all aspects of regulatory reporting. There is an awful lot that goes on behind the scenes that isn't normally captured and oftentimes I think is not necessarily reflected in the estimates that come out of the various agencies.

Mrs. MILLER. One of the things that we're talking about here is the GAO report that we're releasing here. Obviously, these burden estimates, as you talk about, are very difficult certainly not a fine science, that is for sure. I don't know if they could—they should call them estimates or guesstimates, I suppose. But they cannot be guesstimated in a vacuum. You have to talk to real people who are the end users of all these forms and what their personal experiences have been, individuals or businesses or what have you.

I'm noticing that the report states that only 37 percent of the collections government-wide were in compliance with the PRAs actually to consult with the public on the proposed collection. So I am just wondering—perhaps we could have a comment. How can that compliance be better and have we made it too restrictive to reach out to actual people?

Ms. KOONTZ. I think what we saw in our review was that few of the four agencies that we looked at in detail had complied with the requirement to otherwise consult beyond publishing a notice in the Federal Register. However, the reason that this occurred was because OMB's guidance states that agencies are to otherwise consult only when the collection merits such attention. Our feeling was that did not meet the requirements of the act. OMB disagrees. They believe that their interpretation is correct. We have agreed to disagree on this.

But I think what it means is that possibly this is something that the Congress might want to clarify during reauthorization, and that is what are their expectations as to consultation beyond the public comment period that is allowed in the Federal Register notice. So that is the principal reason that agencies did not feel that they were required to do this, and that is not why it didn't happen.

We did talk to a number of agencies who did consult with the groups. They published proposed rules on their Web site. They conducted focus groups, they worked with professional organizations, and in many cases they were able to give us examples where that helped shape the collection in a significant way.

However, I do think it is a fair question also about whether it is appropriate to consult directly on every single collection. Agencies pointed out to us that in many cases collections are renewals, longstanding collections. These have been out in the public for a long period of time, and they're not sure that is the cost-effective approach, to do it on each and every collection. So I think it is something that probably merits some more debate and attention as we move forward on PRA.

Mrs. MILLER. OK. Mr. Lynch.

Mr. LYNCH. Thank you.

Ms. Nelson, just to clarify this, I guess what I had read earlier was a stakeholder review that the EPA conducted, and I do believe that the EPA requested comments on whether higher reporting thresholds for small businesses would actually become a rule or be proposed by EPA and whether higher reporting thresholds for categories of facilities or classes of chemicals with small reportable amounts would be no longer disclosed by those facilities. Is that—are these coming out as rules proposed? I don't know I don't want to——

Ms. NELSON. No, you are correct. They are part of a stakeholder dialog that we held 2 years ago where we put a lot of issues out on the table electronically to receive input in terms of various options. We used the stakeholder input that we got through that process to help us formulate our proposed rules, one of which has already been proposed and is ready to be final, the second of which has not been proposed yet. And we are still having those conversations within the agency as to which options we should move forward with.

So we have not decided within the agency which of those options will go out in the proposed rulemaking. We still need to consult with the administrator on what those final options will be. We do feel fairly confident that one of them will be—at least there is a proposal—the no-significant-change option, which means that your releases didn't change much from last year.

Mr. LYNCH. I understand.

Ms. NELSON. But the other options are all still under discussion, so there's no decision made and no proposal on the street yet.

Mr. LYNCH. And I understand the no-significant-change option really goes to the redundancy of the information already provided.

Ms. NELSON. Well, I wouldn't say redundant as much as trying to make it easier in the industry. If my processing hasn't changed and my releases haven't changed too much since last year, I'm just going to certify that you can use the numbers we gave you last

year because for all intents and purposes my releases are the same as last year.

That way, the public still knows everything in terms of what releases have been in their community and they have a general idea. Because we're looking at generally, how do you determine what no significant change is? A 5, 10, 15 percent change? But the public still has all the information they have had in the past. But it is much less burdensome on the industry in terms of not having to fill out the complete set of TRI forms. They can just certify my releases are essentially the same as last year.

Mr. LYNCH. Thank you.

Mr. Moulton, I know earlier we heard from each of the CIOs in terms of what Congress can do. I read your testimony, and you mentioned OIRA and the allocation of officers that are with various agencies and how sometimes that is not proportionate to the amount of paperwork that they're producing. Do you have a response to other things Congress could be doing to make sure that the focus is not politicized, as you've described in Roman numeral V of your report?

Mr. MOULTON. Sure. I do think that all the CIOs' emphasis on using technology is a good one, and I think Congress can encourage that and maybe even put a little pressure on the agencies. Or maybe the better phrase would be to give them a bit more authority and feeling that they can push forward more aggressively on implementation of technology.

In terms of the politicization of the PRA, I think that what Congress needs to do is make sure if what we're really after is a reduction in paperwork and we have a few agencies producing the lion's share of that paperwork, even if the three agencies here made the reductions relative to their own paperwork burden of 10 percent or 5 percent of the year, it would be swallowed up by the IRS. So if IRS has the lion's share, then we should be focusing a great deal more attention, as this committee did by having them here for their own panel a few weeks ago, which I applaud. But I think we need to mandate that attention be paid or special attention be paid on the IRS and that proportional attention be paid on the agencies as you move down the tiers of how much burden they impose on people with their paperwork.

Mr. LYNCH. Thank you, Madam Chairwoman.

Mrs. MILLER. Thank you very much for coming.

You know, talking about the IRS, I made this comment to Mr. Everson during that hearing. I would just share this with you as well.

When I was a kid, my dad was an aeronautical engineer, worked on a Redstone with Wernher Von Braun at the beginning of the rocket program; and he said it was very exciting times until the Federal Government got involved in the process and with all the paperwork that they always had to fill out. Daddy used to say that they would never shoot off a missile until the paperwork equaled the weight of the rocket.

So I think here we are today still looking at what we can do, but I certainly appreciate all of your attendance today. Certainly as Congress moves toward renewal of PRA we will certainly take into consideration many of your comments. They have been very in-

sightful and helpful to the Congress here. We also will be looking forward to receiving specific suggestions, as we talked about, from many of you as we talk about what we can do to assist you in expediting some of these different processes that we have currently in place.

With that, the meeting will be adjourned. Thank you.

[Whereupon, at 3:43 p.m., the subcommittee was adjourned.]

[Additional information submitted for the hearing record follows:]

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June 22, 2005

The Honorable David M. Walker
Comptroller General of the United States
U.S. Government Accountability Office
441 G Street, N.W.
Washington, DC 20548

Dear Comptroller General:

On June 14, 2005, Linda Koontz, Director of Information Management Issues at the U.S. Government Accountability Office (GAO), testified before the Government Reform Subcommittee on Regulatory Affairs in regards to Federal agency compliance with the Paperwork Reduction Act and efforts to reduce public burden. I am enclosing a set of questions in response to both the hearing and the May 2005 GAO report completed at the request of Government Reform Chairman Tom Davis and myself.

Please hand-deliver GAO's response to the Subcommittee majority staff in B-373B Rayburn House Office Building and the minority staff in B-350A Rayburn House Office Building no later than 5:00 p.m. on Tuesday, July 19, 2005. If you have any questions about this request, please contact Erik Glavich at 225-4407. Thank you for your attention to this matter.

Sincerely,

Candice S. Miller
Chairman
Subcommittee on Regulatory Affairs

Enclosure

cc: The Honorable Tom Davis
The Honorable Stephen F. Lynch

Follow-Up Questions for the U.S. Government Accountability Office

Hearing on June 14, 2005:
"Reducing the Paperwork Burden on the Public: Are Agencies Doing All They Can?"

1. With the passage of the Paperwork Reduction Act of 1995, the intent of the Congress was to reduce the burden imposed on the public by Federal agencies. Is the PRA in its current form an effective tool for reducing public burden?

2. True reductions in burden take place due to program changes—either statutory or agency-initiated. Additionally, certain adjustments, such as those caused by the decreased burden associated with subsequent collections following the initial request, can reflect a real change in the burden experienced by the public.

   Federal agencies may utilize adjustments to lessen the true burden increases caused by discretionary agency actions. How can current law be modified to ensure that agencies engage in activities that truly reduce burden through discretionary program changes and not through simple adjustments?

3. As the Congress considers reauthorization of the PRA, what changes to the information collection requirements of the Act should the Congress consider?

4. The GAO recommends the Director of the Office of Management and Budget (OMB) take five actions to improve agency compliance with the PRA. Furthermore, the GAO recommends five actions to be undertaken by the agencies subject to its investigation. What actions could the Congress take to ensure these recommendations are realized by agencies government-wide?

5. What are some problems associated with specific burden reduction goals, such as those mandated by the 1995 PRA? How can the Congress mandate specific burden reductions caused by agency-initiated program changes?

6. The Administrator of OMB's Office of Information and Regulatory Affairs (OIRA) stated that OMB is considering changing instructions for agencies to align them more closely to the 10 standards in the PRA. How can the Congress ensure that any proposed revisions to OMB guidance are aligned with relevant statutes, either existing or new?

7. Has the PRA been effective in facilitating communication between Federal agencies and the public as information collections are developed and reviewed? Are there any provisions of the PRA that agencies have cited as being a disincentive to reach out to the public?

8. In its report, the GAO suggests that the Congress may want to consider eliminating the requirement that agencies publish an initial 60-day notice in the *Federal Register* for proposed collections. Can you elaborate on this suggestion? Would eliminating the

required 60-day notice decrease public involvement in the development of an agency's information collection? Is there a legislative alternative to eliminating the 60-day notice requirement? For example, how could the Congress change existing law to create an exemption for routine information collections and/or for collections that impose a minimal amount of burden on the public?

9. In the GAO report, OMB and three agencies disagreed with GAO's assertion that public consultation occur on each collection in addition to the required 60-day *Federal Register* notice. The Department of Labor's Chief Information Officer expressed concern that additional public consultation, particularly for routine renewals of collections, would not be a good use of agency resources.

   If the Congress considers altering the public consultation requirement in order to improve its effectiveness, can legislative corrections be made to differentiate between significant collections and routine collections and/or collections that impose a minimal amount of burden? If so, how can the Congress modify the PRA to facilitate public outreach without forcing agencies to spend valuable resources engaging in such activities for routine information collections or when such actions are considered unnecessary?

United States Government Accountability Office
Washington, DC 20548

July 19, 2005

The Honorable Candice S. Miller
Chair
The Honorable Stephen F. Lynch
Ranking Minority Member
Subcommittee on Regulatory Affairs
Committee on Government Reform
House of Representatives

Subject: *Paperwork Reduction Act: Subcommittee Questions Concerning the Act's Information Collection Provisions*

This letter responds to your request of June 22, 2005, that we provide answers to questions relating to our June 14 testimony[1] on the Paperwork Reduction Act (PRA). At the June hearing, we discussed the estimates of government paperwork burden provided in the annual PRA report (known as the Information Collection Budget) that the Office of Management and Budget (OMB) recently released, as well as results from our report on agencies' PRA processes and compliance.[2] Your questions, along with our responses, follow.

1. *With the passage of the Paperwork Reduction Act (PRA) of 1995, the intent of the Congress was to reduce the burden imposed on the public by federal agencies. Is the PRA in its current form an effective tool for reducing public burden?*

As discussed in our report, the PRA in its current form contains mechanisms intended to reduce the public burden. Among these is the requirement that OMB review all information collections, as well as the requirement put in place by the 1995 amendments to the PRA, that agencies establish a process to review program offices' proposed collections before the OMB review. This agency review process is to be carried out by the official responsible for the act's implementation—now the agency's

[1]GAO, *Paperwork Reduction Act: Burden Reduction May Require a New Approach*, GAO-05-778T (Washington, D.C.: June 14, 2005).
[2]GAO, *Paperwork Reduction Act: New Approach May Be Needed to Reduce Government Burden on Public*, GAO-05-424 (Washington, D.C.: May 20, 2005).

Chief Information Officer (CIO)[3]—who is to be sufficiently independent of program responsibility to evaluate fairly whether information collections should be approved. As part of this process, the CIO is to certify that information collections meet 10 standards set forth in the act, including that they reduce the burden on the public to the extent practicable and appropriate.

However, as discussed in our report, the current implementation of this CIO review offers opportunities for improvement. As the case studies in our report demonstrate, the review has been reduced to a routine administrative process, rather than the rigorous analytical process envisioned by the Congress, and does not appear to be effective in reducing the burden. Accordingly, we recommended that agency CIOs strengthen support for certifications, a process that has the potential to improve the effectiveness of the review mechanism as a means to reduce the burden. More effective implementation would make the PRA in its current form a more effective tool for reducing the burden.

In addition, we described more targeted approaches to burden reduction that have been pursued at the Internal Revenue Service (IRS) and the Environmental Protection Agency (EPA). Both IRS and EPA have reported success with these efforts, and we suggested in our report that the Congress may want to consider mandating the development of pilot projects to test and review the value of such approaches. However, we also noted that targeted reviews of the kind that IRS and EPA perform would require more resources than are now devoted to the CIO review process, and may not be warranted at agencies that do not have the extensive paperwork issues that these two agencies have.

2. *True reductions in the burden should take place due to program changes—either statutory or agency-initiated. Additionally, certain adjustments, such as those caused by the decreased burden associated with subsequent collections following the initial request, can reflect a real change in the burden experienced by the public.*

   Federal agencies may use adjustments to lessen the true burden increases caused by discretionary agency actions. How can current law be modified to ensure that agencies engage in activities that truly reduce the burden through discretionary program changes and not through simple adjustments?

First, there may be opportunities to achieve such burden reduction without modifications to the law. Under the current law, agency CIOs are required to certify that for each information collection, the agency has reduced the associated burden to the extent practicable. However, as we describe in our response to question 1, the certification process is currently more administrative than analytical. Improving the

[3]The 1995 amendments used the 1980 act's reference to the agency "senior official" responsible for implementation of the act. A year later, the Congress gave that official the title of agency Chief Information Officer (the Information Technology Management Reform Act, Pub. L. 104-106, Feb. 10, 1996, which was subsequently renamed the Clinger-Cohen Act, Pub. L. 104-208, Sept. 30, 1996).

execution of this process could increase agencies' activities to reduce the burden through program changes.

A second way to potentially achieve such burden reductions—which does involve changes to the PRA—was discussed in our report. The Congress could consider mandating the establishment of pilot projects to test and review the targeted approaches to burden reduction used by IRS and EPA. Such pilot projects would encourage agencies to explore different possible activities having the potential to truly reduce the burden. However, as mentioned earlier, targeted reviews of the kind that IRS and EPA do would require more resources than are now devoted to the CIO review process, and may not be warranted at agencies with less extensive paperwork issues than there is at these two agencies.[4]

3. *As the Congress considers reauthorization of the PRA, what changes to the information collection requirements of the act should the Congress consider?*

In our report, we identified two changes that we believe the Congress should consider. First, we suggested that the Congress consider amending the act to mandate pilot projects similar to the targeted efforts being implemented by IRS and EPA and to measure and evaluate the success of these projects. Second, we suggest that the Congress consider eliminating the additional public comment period (the 60-day notice) added by the 1995 amendments (see the answer to question 8). In addition, in light of the lack of understanding of the current PRA requirement that public consultation occur on all collections, the Congress might consider clarifying what level of public consultation it expects for new and existing collections (see the answer to question 9).

4. *The GAO recommends the Director of the Office of Management and Budget (OMB) take five actions to improve agency compliance with the PRA. Furthermore, the GAO recommends five actions to be undertaken by the agencies subject to its investigation. What actions could the Congress take to ensure these recommendations are realized by agencies governmentwide?*

Some of the actions we recommended to OMB would, if implemented, have governmentwide impact, such as clarifying its guidance in various ways and directing agencies to review forms on agency Web sites for PRA compliance. As part of our standard processes, we systematically follow up on recommendations and make information on their status available to the Congress. Accordingly, we will be reviewing the actions of OMB and the other agencies to respond to our recommendations. In addition, the Congress could continue to hold regular oversight hearings where it could monitor follow-up on our recommendations and their governmentwide effect.

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[4]IRS and six other agencies account for more than 90 percent of the federal burden; thus, relatively small reductions in the burden imposed by these agencies could have a major effect on reducing the paperwork burden governmentwide.

5. *What are some problems associated with specific burden reduction goals, such as those mandated by the 1995 PRA? How can the Congress mandate specific burden reductions caused by agency-initiated program changes?*

A major problem associated with these goals is that, so far, they have not produced the intended results. We commented in our testimony on the government's lack of success in meeting the specific burden reductions mandated by the 1995 PRA. Our recommendation that the CIO review process be strengthened is one possible approach to improving agencies' success in reducing the burden.

A second problem is the intrinsic difficulty of accurately estimating the burden. As we said in our testimony, "Because of limitations in the ability to develop accurate burden estimates, the degree to which agency burden-hour estimates reflect the real burden is unclear." It is challenging to estimate the amount of time it will take for a respondent to collect and provide the information or how many individuals an information collection will affect.[5] OMB's latest report[6] on the paperwork burden also alludes to this difficulty, observing with regard to IRS that "... in an effort to more accurately measure the paperwork burden, IRS is currently evaluating its current methodology which, although vastly more sophisticated than that used by most federal agencies, has recognized shortcomings. The current methodology is based on survey data almost 20 years old and measures only certain types of taxpayer compliance burdens. It has limited ability to predict changes in the compliance burden resulting from changes in tax policy or tax system administration."

In regard to mandating specific burden reductions, we made a related suggestion in our report. Specifically, we suggested that the Congress may wish to mandate the development of pilot projects to test and review the value of approaches such as those used by IRS and EPA. As part of this pilot, agencies could identify specific burden reduction goals for the targeted collections and report on reductions achieved.

6. *The Administrator of OMB's Office of Information and Regulatory Affairs (OIRA) stated that OMB is considering changing instructions for agencies to align them more closely to the 10 standards in the PRA. How can the Congress ensure that any proposed revisions to OMB guidance are aligned with relevant statutes, either existing or new?*

As part of our standard recommendation follow-up, we will be reviewing OMB's actions to revise its guidance in the ways we recommended, and we will make the results of this follow-up available to the Congress. The Congress could also continue to hold regular oversight hearings where it could monitor OMB's actions.

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[5]See GAO, *EPA Paperwork: Burden Estimate Increasing Despite Reduction Claims*, GAO/GGD-00-59 (Washington, D.C.: Mar. 16, 2000) for how one agency estimates the paperwork burden.
[6]Office of Management and Budget, Office of Information and Regulatory Affairs, *Managing Information Collection: Information Collection Budget of the United States Government, Fiscal Year 2005* (May 2005), http://www.whitehouse.gov/omb/inforeg/2005_icb_final.pdf.

7. *Has the PRA been effective in facilitating communication between federal agencies and the public as information collections are developed and reviewed? Are there any provisions of the PRA that agencies have cited as being a disincentive to reach out to the public?*

Although the act provides mechanisms to encourage communication between federal agencies and the public, the implementation of these mechanisms could be more effective. That is, the act explicitly states in section 3506 (c)(2)(A) that, in addition to providing a 60-day notice in the *Federal Register*, each agency shall otherwise consult with members of the public and affected agencies concerning *each* proposed collection of information. However, agencies have not complied with this requirement. We reported that a key reason for this noncompliance is OMB's guidance that such consultation is optional. According to this guidance, agencies should "otherwise consult," or affirmatively reach out to the public, only on those collections that OMB says "deserve such effort." As we stated in our report, if agencies do not actively consult with the public, they limit their ability to determine whether proposed collections adequately satisfy the act's standards. As a result, their collections may be unnecessarily burdensome because of lack of clarity, unnecessarily onerous recordkeeping requirements, or other reasons.

We also concluded that the 60-day *Federal Register* comment period has had limited effectiveness in obtaining the views of the public. As we reported, most agencies provided the required 60-day *Federal Register* notice, but only an estimated 7 percent of those notices generated one or more comments. We believe the *Federal Register* notice is not effective in facilitating communication between federal agencies and the public because it generates so few comments. Moreover, in the act's second required *Federal Register* notice, the public has another opportunity to provide its views. For these reasons, other types of consultation are important and should be encouraged. For example, some agencies post proposed collections on their Web sites and ask the public to comment. Similarly, OMB could establish links on its Web site to each agency's proposed collections (as is done with agencies' proposed regulations on (www.regulations.gov) and ask for public comments.

Agencies have cited another disincentive to undertaking active consultation: The act defines a collection of information requiring approval as the obtaining of facts or opinions by an agency that calls for answers to identical questions posed to 10 or more persons. According to agencies, this 10-person provision restricts their ability to consult with the public on their proposed information collection requests. We reported in 2000, for example, that EPA officials "noted that the extent and nature of the agency's public consultations is limited by the PRA's requirements. . . . A survey or a series of meetings with 10 or more potential respondents to a proposed information collection would itself constitute a collection of information, thereby triggering the [OMB] approval process and adding the burden associated with the collection to the agency's total."[7] OMB's instructions to agencies acknowledge this constraint and state that "agencies should not conduct special surveys to obtain

[7]GAO/GGD-00-59, 23.

information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable."

However, OMB has the option of developing alternatives to allow agencies to consult on these matters. For example, it could devise and approve a standard public consultation survey asking for responses to proposals for (or renewals of) information collections that agencies could use without further OMB approval.

8. *In its report, the GAO suggests that the Congress may want to consider eliminating the requirement that agencies publish an initial 60-day notice in the* Federal Register *for proposed collections. Can you elaborate on this suggestion? Would eliminating the required 60-day notice decrease public involvement in the development of an agency's information collection? Is there a legislative alternative to eliminating the 60-day notice requirement? For example, how could the Congress change existing law to create an exemption for routine information collections and/or for collections that impose a minimal amount of burden on the public?*

Our suggestion that the Congress consider eliminating the publication of the initial 60-day notice in the *Federal Register* is based on our observation that this notice had limited effectiveness in generating public involvement. (We did not analyze the responses generated by the second 30-day *Federal Register* notice as part of our review.) In our view, eliminating this notice would not, therefore, appreciably decrease public involvement in the development of information collections. If agencies instead performed other types of consultation, as we recommended, we see the potential for a net increase in public involvement.[8]

If the Congress chooses not to eliminate this notice, it could create exemptions for certain types of collections, such as extensions (currently approved collections that are being extended with no change) or "voluntary" collections (that is, where the public is under no obligation to respond; for these, agencies have an incentive to minimize burden so as to encourage the public to respond when there is no legal obligation to do so). Alternatively, the Congress could create an exemption for proposed collections that impose a minimal number of burden hours or affect only a small number of respondents. Such exemptions could free up agency resources that could be devoted to improving compliance on more significant collections. We have not studied the relative merits of these alternatives, however.

9. *In the GAO report, OMB and three agencies disagreed with GAO's assertion that public consultation occur on each collection in addition to the required 60-day* Federal Register *notice. The Department of Labor's CIO expressed concern that additional public consultation, particularly for routine renewals of collections,*

[8]Other types of consultation might include holding meetings with representative groups, posting information on Web sites, and so on. For example, IRS convenes periodic meetings between its personnel and representatives of the American Bar Association, the National Society of Public Accountants, the American Institute of Certified Public Accountants, and other professional groups to discuss tax law and tax forms. During these meetings there are opportunities for those attending to make comments on forms used for information collection.

would not be a good use of agency resources.

If the Congress were to consider altering this particular provision to improve its effectiveness as a tool to improve public consultation, can legislative corrections be made to differentiate between significant collections and routine collections and/or collections that impose a minimal amount of burden? If so, how can the Congress modify the PRA to facilitate public outreach without forcing agencies to spend valuable resources engaging in such activities for routine information collections or when such actions are considered unnecessary?

If the Congress wants to alter the existing public consultation requirements in the PRA, it has various alternatives for creating exemptions. For example, it could create an exemption for certain types of collections, such as extensions of currently approved collections or voluntary collections. Alternatively, the Congress could create an exemption for proposed collections that impose a minimal amount of burden on the public or affect only a small number of respondents. We have not studied the relative merits of these alternatives, however.

Agency Comments and Our Evaluation

We provided a draft of this letter to OMB officials for comment. The Chief for the Health, Transportation and General Government Branch in OMB's Office of Information and Regulatory Affairs stated that OMB had no comments.

In responding to these questions, we relied on past work related to our review of agencies' processes for reviewing paperwork collections under the act. We conducted our work in accordance with generally accepted government auditing standards during June and July 2005.

We are sending copies of this letter to the Director of OMB and to other interested parties. Copies will also available at no charge at our Web site at www.gao.gov.

Should you or your offices have any questions on matters discussed in this letter, please contact me at (202) 512-6240 or by e-mail at koontzl@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made major contributions to this correspondence include Al Stapleton, Assistant Director; Barbara Collier; Nancy Glover; David Plocher; and Warren Smith.

Linda D. Koontz

Linda D. Koontz
Director, Information Management Issues

(310742)

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INDEPENDENT

July 6, 2005

The Honorable Kimberly Terese Nelson
Assistant Administrator and Chief Information Officer
Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Dear Ms. Nelson:

I want to thank you again for testifying before the Government Reform Subcommittee on Regulatory Affairs in regards to Federal agency compliance with the Paperwork Reduction Act and efforts to reduce public burden. In response to the hearing, I am enclosing additional questions for the record.

Please hand-deliver EPA's response to the Subcommittee majority staff in B-373B Rayburn House Office Building and the minority staff in B-350A Rayburn House Office Building no later than 5:00 p.m. on Thursday, July 28, 2005. If you have any questions about this request, please contact Erik Glavich at 225-4407. Thank you for your attention to this matter.

Sincerely,

Candice S. Miller

Candice S. Miller
Chairman
Subcommittee on Regulatory Affairs

Enclosure

cc: The Honorable Tom Davis
The Honorable Stephen F. Lynch

Follow-Up Questions for the U.S. Environmental Protection Agency

Hearing on June 14, 2005:
"Reducing the Paperwork Burden on the Public: Are Agencies Doing All They Can?"

Impediments to Reducing Burden

1. What are some examples of impediments to achieving greater burden reductions through EPA's active and proposed burden initiatives? Are there ways Congress can assist agencies by removing statutory hurdles which unnecessarily impede burden reduction initiatives?

Information Collection Request Process

2. The GAO found that the agency CIOs in their study certified that the 10 standards of the PRA were satisfied even though support was either missing or partial. In Appendix 2 of your written testimony, you cite four different individuals within your office who are responsible for PRA compliance before an ICR is submitted to OMB for approval. With typically 50 new collections and over 100 renewals per year approved by the OEI/OIC/CstD Director, how many ICRs were returned to the OEI/OIC/CStD/ISB Branch Chief during fiscal year 2004 because they were in need of improvement?

3. The PRA of 1995 and subsequent OMB guidance requires Federal agencies to establish a review process that minimizes the public burden imposed by information collections and ensures that only information necessary is collected. Has the PRA been effective in assisting EPA to minimize the public burden imposed by information collections? Please explain. Also, are their elements of the PRA you can identify as being particularly beneficial or as an impediment to your office's mission of minimizing burden and ensuring the practical utility of information collected? Please provide examples if possible.

4. How does your office ensure that burden estimates for collections are accurate? Please include two distinct elements in your response: (1) the time it takes a respondent to compile information and prepare for a collection's requirements, and (2) the time needed to process the paperwork and file the report.

Efforts to Reduce Burden

5. EPA's RCRA burden reduction initiative has been on the schedule for six years. What impediments have slowed its completion? What is the current timeline and how confident is EPA in keeping to this schedule? Additionally, are the impediments experienced throughout the implementation of this initiative akin to challenges facing other agency burden reduction efforts? Please explain.

6. In your testimony, you state that EPA's public burden has stabilized over the past four years despite roughly 50 new collections per year. What has been the overriding element of success in ensuring that burden is minimized? Would EPA efforts be as successful in minimizing burden without the PRA?

7. In your written testimony, you briefly discuss the Agency-wide workgroup convened by EPA's Small Business Division to find ways to reduce burden on small businesses. Additionally, you cited the Central Data Exchange as an Agency-wide effort within EPA to reduce burden. Are there similar types of workgroups, either active or proposed, within EPA where different program offices attempt to identify burden reduction opportunities?

8. What conditions prompted EPA to establish processes that include a more rigorous review of collections to reduce or minimize burden? Can you describe a few features of EPA review processes that exceed the scrutiny required by the PRA or OMB guidance? How does EPA measure the success of its comprehensive review of collections?

Cooperation Between Different Federal Agencies

9. Can you discuss a few specific examples where EPA has worked with other Federal agencies to find areas to reduce duplication? Do EPA program officials routinely consult with officials from other Federal agencies and with the regulated community to help determine duplication within not only EPA, but across other Federal agencies as well?

Burden Reduction Through the Use of Information Technology

10. The use of technology and the implementation of e-Government initiatives have given Federal agencies an expansive array of opportunities to reduce burden. For example, you mentioned in your testimony that electronic submissions through EPA's Central Data Exchange (CDX) were up 50 percent in 2004 from 2003. Furthermore, you cite the software, TRI-Made Easy (TRI-ME), as an effort to reduce public burden through the use of technology.

    Does EPA have a policy or protocol in place to examine proposed and existing collections up for renewal to find ways the use of technology can lead to burden reductions? Also, how does EPA measure burden reduction through the use of information technology?

11. Describe EPA's role in the development of the "Business Gateway."

Public Consultation

12. The GAO recommends agencies consult with potential respondents to an information collection beyond the publication of *Federal Register* notices. This recommendation stems from the GAO's assertion that the PRA requires such action. What are the guidelines EPA has established for program officials regarding public consultation in

addition to the required the 60-day *Federal Register* notice? For ICRs developed by DOL, are the *Federal Register* notices generally sufficient in ensuring public consultation? Please explain.

13. *Federal Register* notices regularly include only the total burden imposed on the regulated community and the total burden per user but offer no explanation as to how figures were developed. While giving the public an opportunity to comment on an ICR is important, it is difficult for affected parties to offer substantive comment when the basis for the burden hours proposed is not also made available in the *Federal Register* notice. How can agencies make the process for calculating imposed burden more transparent?

Follow-Up Questions for the U.S. Environmental Protection Agency

Hearing on June 14, 2005:
"Reducing the Paperwork Burden on the Public: Are Agencies Doing All They Can?"

Impediments to Reducing Burden

1. **What are some examples of impediments to achieving greater burden reductions through EPA's active and proposed burden initiatives? Are there ways Congress can assist agencies by removing statutory hurdles which unnecessarily impede burden reduction initiatives?**

   Answer:

   Agencies must always strike a balance between reducing reporting requirements and preserving the utility of the information being collected in accordance with legal constraints and Agency program management needs.

   Regarding how Congress could be of assistance by removing hurdles, a fairly large hurdle currently exists in the information collection approval process in that all requests have to go through the same exhaustive review and approval process. Yet not all collection requests are the same. If the review and approval process for voluntary, non-controversial collections that respondents clearly welcome could be streamlined, this would help agencies focus their limited resources on reducing burden in other critical areas. Congress could also provide assistance by limiting general government-wide burden reduction goals similar to those originally included in the 1995 PRA. Such goals tend to waste resources by focusing on lowering numbers rather than targeting specific problem areas.

Information Collection Request Process

2. **The GAO found that the agency CIOs in their study certified that the 10 standards of the PRA were satisfied even though support was either missing or partial. In Appendix 2 of your written testimony, you cite four different individuals within your office who are responsible for PRA compliance before an ICR is submitted to OMB for approval. With typically 50 new collections and over 100 renewals per year approved by the OEI/OIC/CStD Director, how many ICRs were returned to the OEI/OIC/CStD/ISB Branch Chief during fiscal year 2004 because they were in need of improvement?**

   Answer:

For fiscal year 2004, no ICRs were returned to the OEI/OIC/CStD/ISB branch chief because they were in need of improvement. In fiscal year 2003, two ICRs were returned to the team leader for correction. In the Collection Strategies Division (CStD), primary responsibility for ensuring the 10 standards of the PRA are properly satisfied within an ICR resides with the desk officer assigned to the ICR. The desk officer works closely with the program office submitting the ICR to ensure the requirements are met. Once the desk officer is satisfied, it is then the team leader's responsibility to provide yet another exhaustive review to ensure the ICR satisfies PRA requirements. It is at these two review stages that most ICRs undergo nearly all of their correction and modification. Once completed, the ICR is forwarded to the branch chief for a final review prior to submission to the CStD Director for final approval. By the time an ICR package reaches the CStD Director, there is little likelihood of an ICR not meeting the requirements of the PRA. It is rare that an ICR needs additional modification at these final two stages.

3. **The PRA of 1995 and subsequent OMB guidance requires Federal agencies to establish a review process that minimizes the public burden imposed by information collections and ensures that only information necessary is collected. Has the PRA been effective in assisting EPA to minimize the public burden imposed by information collections? Please explain. Also, are their elements of the PRA you can identify as being particularly beneficial or as an impediment to your office's mission of minimizing burden and ensuring the practical utility of information collected? Please provide examples if possible.**

Answer:

The PRA has provided EPA with a helpful framework for the consideration of alternatives including less burdensome approaches early in the information collection process. To this end, the PRA has been effective in assisting EPA manage our burden reduction efforts.

In one area, however, the PRA could be improved in order to enable Agencies greater processing flexibility and therefore important time and cost savings better spent on burden minimizing efforts. The PRA stipulates a "one-size-fits-all" process for every collection. As noted in the response to Question 1, agencies would benefit if the process for voluntary collections in particular were streamlined and therefore shortened. Similarly, EPA also recommends streamlining ICR renewals of core program activities that have not changed, as well as lengthening the three-year approval timeframe currently in place for those core program activities that have not changed would also benefit agencies.

4. **How does your office ensure that burden estimates for collections are accurate? Please include two distinct elements in your response: (1) the time it takes a**

respondent to compile information and prepare for a collection's requirements, and (2) the time needed to process the paperwork and file the report.

Answer:

When EPA develops burden estimates, all elements of the information collection are accounted for, including the time required to read instructions or regulations, compile the information, and process the paperwork. In the Agency's more complex ICRs, a matrix is developed of all the detailed individual components of the information requirements, including burden and costs for each. These approaches better enable EPA programs to consider the very specific aspects of information collection so that the burden estimates are as accurate as possible. In addition, the Agency provides the methodology including analytic assumptions that the Agency relied upon when developing burden estimates for all ICRs in the appropriate docket for each action. The Agency then seeks public comment on those estimates and underlying assumptions. In some instances, the Agency seeks peer review of burden estimates prior to public comment as a means of further ensuring the quality and accuracy of the Agency's best professional judgment regarding the time needed to complete forms per the relevant requirements.

Efforts to Reduce Burden

5. **EPA's RCRA burden reduction initiative has been on the schedule for six years. What impediments have slowed its completion? What is the current timeline and how confident is EPA in keeping to this schedule? Additionally, are the impediments experienced throughout the implementation of this initiative akin to challenges facing other agency burden reduction efforts? Please explain.**

Answer:

Current Schedule for the Burden Reduction Final Rule

The Burden Reduction final rule encompasses almost 150 regulatory changes to the Resource Conservation and Recovery Act (RCRA) requirements for hazardous waste management. These changes embrace all aspects of the RCRA regulatory program including hazardous waste identification, generator requirements, and requirements for hazardous waste treatment, storage and disposal units. It is an extremely complicated rulemaking that has required a thorough understanding of all aspects of the RCRA regulatory program and because it is a final rule, it has also required an extensive and time-consuming review of all our regulatory language changes and their possible effects on program policy.

We are, however, fully committed to meeting the November 2005 deadline set out in the Thompson report and see no reason it should not be met. On July 1, the rule package was distributed to Agency work group members signaling the final stages of

internal Agency review.

Development of the Burden Reduction Rule

In 1995, the Paperwork Reduction Act established federal government-wide goals for reducing the total burden imposed on our stakeholders.

1999 Notice of Data Availability (64FR 32859)

Over the next three years, the RCRA Burden Reduction Initiative reviewed and analyzed all RCRA reporting and record keeping requirements. We developed ideas for eliminating or streamlining many of them. We obtained input, through a series of almost twenty intensive information gathering sessions and work group meetings, from program offices at EPA Headquarters, EPA Regions, and state experts on the validity of the ideas, and whether they would detract from our mission to protect human health and the environment. All these ideas were announced for comment on June 18, 1999 (64FR 32859) in a Notice of Data Availability. The notice was done to save time and effort in getting to a proposal by allowing us to seek broad comment on a large number of potential changes to RCRA while soliciting comment from all our stakeholders. EPA received 36 comments on the notice.1

2002 Burden Reduction Proposed Rule (67 FR 2518)

All comments were considered in the development of the proposed Burden Reduction rule. In addition, we discussed our burden reduction plans in public forums, including a national public meeting on reinventing government in April 2000, (sponsored by the Office of Management and Budget), a national meeting of states sponsored by the Association of Territorial and Solid Waste Management Officials (ASTSWMO), several industry-outreach roundtables, and a meeting with a coalition of environmental groups. The proposed rule was published in the Federal Register on January 17, 2002 (67 FR 2518) and identified approximately one third of the 334 RCRA reporting requirements for elimination or modification. We received, in total, over 200 comments on our proposed changes.

2003 Notice of Data Availability (68 FR 61662)

On October 29, 2003, we once again requested comments on additional ideas for reducing the recordkeeping and reporting burden imposed on the states, the public, and the regulated community as suggested by those commenting on the proposed rule, as well as to address notice and comment issues. We received over 50 additional comments on this notice.

Burden Reduction Regulatory Time Line

It has been almost six years since the publication of our first Federal Register notice on burden reduction. However, because of comments received on the proposal, we believed it was necessary to go out with another Notice of Data Availability, which created some additional time between proposal and final. While this certainly is not ideal, it is important to acknowledge the opportunities we have given our stakeholders to comment on this rule. Because of this extensive outreach, our stakeholders were able to provide many comments, concerns and ideas on burden reduction that resulted in new, suggested changes to the RCRA regulations. Each new idea required additional analysis, by us, as to its feasibility and practicality. In addition, with two Federal Register notices and one formal proposal in the Federal Register, multiple comment periods, and multiple Agency reviews were required. These actions simply take time.

Lessons Learned

It may be better to do regulatory changes of this nature as smaller packages. Trying to understand complex program areas, resolve complicated issues and continue to add new ideas to the rule, as suggested in comments, may have slowed the entire process (at the expense of regulatory changes that were supported by all the stakeholders). However, pursuing regulatory changes in smaller pieces would have added extra resource requirements, i.e., multiple agency reviews, the need for multiple economic analyses, multiple support documents (plus small business impacted, unfunded mandates analyses, etc.) and the potential of having to manage multiple legal challenges to the rule changes. These potential resource demands provided a strong impetus for us to keep this effort consolidated into a large comprehensive rule which more completely addressed burden reduction, but took more time to develop.

6. **In your testimony, you state that EPA's public burden has stabilized over the past four years despite roughly 50 new collections per year. What has been the overriding element of success in ensuring that burden is minimized? Would EPA efforts be as successful in minimizing burden without the PRA?**

Answer:

The stability of EPA's public burden cannot be attributed to any one major initiative or effort. EPA's level of public burden is stable for several reasons: (1) Large increases in total burden typically occur as a result of new major statutes and there have been none in the last few years. (2) As programs mature, there may be decreases in burden once initial information requirements are met when a regulation is first enacted. Many collections have large, initial requirements that do not reoccur later. Also, when some collections are first imposed, burden numbers given are estimates based on assumptions. As programs mature and the agency has better information on the actual

number of respondents and actual burden imposed, EPA is usually able to reduce those estimates to reflect an entity's real burden. (3) EPA weaves burden reduction into every facet of the collection planning and development process. Through the constant dialogs between EPA and affected parties, training given to new rule writers, as well as through the constant contact between an ICR developer and the ICR desk officer, a culture of minimal burden is created and maintained.

7. **In your written testimony, you briefly discuss the Agency-wide workgroup convened by EPA's Small Business Division to find ways to reduce burden on small businesses. Additionally, you cited the Central Data Exchange as an Agency-wide effort within EPA to reduce burden. Are there similar types of workgroups, either active or proposed, within EPA where different program offices attempt to identify burden reduction opportunities?**

Answer:

Because most burden reduction activities in EPA can be directly connected to a collection requirement that is mandated by regulation, they are typically led by program offices. However, EPA does have successful examples of collaborative efforts to reduce burden beyond those developed through regulatory processes, such as the Central Data Exchange and the Toxics Release Inventory Initiative. EPA's Office of Policy, Economics and Innovation has pursued an effort called Performance Track which offers burden reduction incentives for facilities that have demonstrated a commitment to going beyond existing compliance requirements.

In addition, EPA's Small Business Division maintains a diverse array of initiatives to help the nation's small businesses and to help reduce their compliance burden. The SBD recently led an internal Agency-wide workgroup that completed EPA's Small Business Strategy and its Implementation Plan. The overall goal of the Strategy and Implementation Plan is to bring unity and improved effectiveness to Agency-wide efforts to assist small businesses in improving their environmental performance while enhancing their "bottom line," and it establishes a general framework outlining how EPA's Program and Regional Offices will coordinate, collaborate, and unify environmental and regulatory compliance assistance to small businesses. The Small Business Division also holds regular meetings between high-level EPA managers and industry to give small business representatives the opportunity to communicate concerns, including paperwork burden issues, directly to senior Agency officials, and to give the Agency the opportunity to hear first-hand the concerns of small businesses.

8. **What conditions prompted EPA to establish processes that include a more rigorous review of collections to reduce or minimize burden? Can you describe a few features**

of EPA review processes that exceed the scrutiny required by the PRA or OMB guidance? How does EPA measure the success of its comprehensive review of collections?

Answer:

As a regulatory agency, the collection of information is critical to the success of the Agency's mission. However, EPA is also committed to working closely with its stakeholders to ensure minimum burden is placed on entities as the Agency collects the required information. Some of the features that may set EPA apart from the bare minimum required by the PRA are that the CIO has devoted staff and resources to implement the PRA, independent of the program offices. OEI has a dedicated staff of 6 FTEs that independently review both proposed new collections and renewals, to ensure they meet the requirements of the PRA. This staff reviews ICRs for compliance with the PRA and works closely with the program offices if corrections or adjustments are needed. OEI also maintains an on-line tracking system and database that automatically informs a program office of key ICR milestones, as well as providing access to relevant development documents. A comprehensive intranet site with all pertinent PRA and ICR guidance, including an ICR handbook and templates has also been developed and made available to all EPA staff. Finally, EPA periodically conducts three-day Regulatory Development Training courses for rule writers, which includes an OEI-led module on the requirements of the PRA and ICRs.

Cooperation Between Different Federal Agencies

9. **Can you discuss a few specific examples where EPA has worked with other Federal agencies to find areas to reduce duplication? Do EPA program officials routinely consult with officials from other Federal agencies and with the regulated community to help determine duplication within not only EPA, but across other Federal agencies as well?**

Answer:

EPA routinely collaborates with other Federal agencies in developing programs that helps avoid duplicative efforts and leverages resources. Some examples include:

- EPA is working with Customs and Border Protection, as well as a variety of other federal agencies, on the creation of the International Trade Data System, a centralized system for obtaining chemical import and export information.
- EPA is working with Department of Interior to determine if the Exchange Network, a partnership among EPA, states, tribes and territories, can be used to exchange mining data among the partners.
- EPA is partnering with the State of Kentucky, the Open GIS Consortium, and the

U.S. Geological Survey to enhance the use of watershed modeling in Kentucky which will improve environmental decision making.

Burden Reduction Through the Use of Information Technology

10. The use of technology and the implementation of e-Government initiatives have given Federal agencies an expansive array of opportunities to reduce burden. For example, you mentioned in your testimony that electronic submissions through EPA's Central Data Exchange (CDX) were up 50 percent in 2004 from 2003. Furthermore, you cite the software, TRI-Made Easy (TRI-ME), as an effort to reduce public burden through the use of technology. Does EPA have a policy or protocol in place to examine proposed and existing collections up for renewal to find ways the use of technology can lead to burden reductions? Also, how does EPA measure burden reduction through the use of information technology?

Answer:

Please note that we are pleased to report that as of July 22, 2005, approximately 96 percent of the facilities reporting to EPA under the TRI program have used the TRI-ME software to file their TRI reports by the reporting deadline (July 1st annually). Also note that approximately 64 percent of all submissions so far this year have been received through the Agency's Central Data Exchange (TRI-ME software must be used to report via this Internet means). Note, facilities may also use TRI-ME to generate their reports for submission via diskette. While paper report submissions are still being processed EPA expects the final CDX totals to be a significant increase over last year's final number of 36 percent of all submissions. Final numbers for the processing year will be available around October 1. EPA views the use of TRI-ME and CDX as a great example of the Agency's use of information technology to ease burden on the reporting community while saving taxpayer dollars in Agency processing time via program modernization.

Beyond the PRA and GPEA, EPA does not currently have a policy in place to examine proposed and existing collections for opportunities to use technology as a means of reducing burden. But it certainly makes use of both of those laws to encourage programs to explore and foster technology solutions that can be used to reduce burden. EPA's participation, and in some cases, leadership, in many of the President's Management Agenda E-GOV initiatives is a clear example of how it is striving to make use of technology to facilitate the exchange of information between the government and the public. However, since most of these solutions are still in the early stages substantive measurement of burden reduction is still forthcoming.

The Office of Environmental Information funded or co-funded three projects in

the drinking water program which had as part of their objectives burden reduction on states and the regulated community. (1) The Safe Drinking Water Access and Review System (SDWARS) provided one shared electronic space for laboratory water systems, states and EPA to report, review, approve and access unregulated contaminant monitoring data. Water systems and states did not have to design, build and maintain their own data bases for these data and did not have to do duplicate data entry thereby reducing respondent burden. (2) The Safe Drinking Water Information System (SDWIS) for regulated contaminant monitoring data has a real-time data validation tool which provides states immediate feed back on data entry, reducing error reports, data re-entry, and resubmission of compliance reports thus reducing their burden in responding to regulatory requirements. (3) Several states received a grant to develop a laboratory-to-state electronic reporting template to eliminate state duplicate data entry by hand. Once fully developed and tested, EPA will work with these states to transfer this technology to other states desiring to address this same interest in reducing burden.

11. Describe EPA's role in the development of the "Business Gateway."

Answer:

EPA has had, and will continue to have, an active role in the development of the Business Gateway Initiative (BGI). EPA has been a partner with the Small Business Administration (SBA) since the initiative commenced. EPA's CIO sits on the Executive Board of the BGI, and an EPA senior staffer sits on the BGI Advisory Board. EPA also has been active in the development of the Forms Catalog component of the BGI, and has populated that catalog with EPA's public-use forms. EPA has also been a leader in the Compliance Assistance (COMPASS) tool currently being piloted under BGI. Finally, EPA actively participates in the BGI Funding, and Communications/Outreach workgroups.

Public Consultation

12. The GAO recommends agencies consult with potential respondents to an information collection beyond the publication of Federal Register notices. This recommendation stems from the GAO's assertion that the PRA requires such action. What are the guidelines EPA has established for program officials regarding public consultation in addition to the required the 60-day Federal Register notice? For ICRs developed by EPA, are the Federal Register notices generally sufficient in ensuring public consultation? Please explain.

Answer:

The EPA handbook for developing ICRs specifically calls for consultation beyond Federal Register notices. This consultation of less than 10 respondents is targeted directly to the respondents, since typically little or no comments are received through the Federal Register notice requests. Below is the consultation guidance provided through the EPA handbook.

> *" 3(c) Consultations*
>
> *As a means of planning your collection, monitoring its usefulness, and learning of ways to minimize burdens, OMB regulations require periodic consultation with respondents and data users. In addition to using the FR Notice described above to initiate comment, you must consult with actual or potential respondents in conjunction with an ICR renewal, even if the collection has not changed.*
>
> *Give the name, phone number, and affiliation of all non-EPA persons whom you consulted on any aspect of the collection. Also, describe other public contacts or opportunities provided for public comment (e.g., public meetings and workshops). Briefly summarize the reactions of interested parties.*
>
> *When the collection touches on subjects that might interest other agencies, be sure to solicit their opinions and advice. When the project involves state or local governments, it is good practice to consult with the organizations that represent them (e.g., STAPPA, ASTWMO, and the Council of State Governments)."*

13. Federal Register notices regularly include only the total burden imposed on the regulated community and the total burden per user but offer no explanation as to how figures were developed. While giving the public an opportunity to comment on an ICR is important, it is difficult for affected parties to offer substantive comment when the basis for the burden hours proposed is not also made available in the Federal Register notice. How can agencies make the process for calculating imposed burden more transparent?

Answer:

To review the details of the burden calculations and other more specific aspects of the collection of information, EPA's Federal Register notices for ICRs instruct the reader to obtain a copy of the ICR from the Agency's public electronic docket (EDOCKET) available on-line or to contact the Agency directly. That ICR contains the methodology including analytic assumptions that the Agency relied upon when developing burden estimates. The Agency then seeks public comment on those estimates and underlying assumptions as a means to provide a most transparent process.

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BERNARD SANDERS, VERMONT,
INDEPENDENT

July 6, 2005

The Honorable Daniel P. Matthews
Chief Information Officer
U.S. Department of Transportation
400 Seventh Street, S.W.
Washington, DC 20590

Dear Mr. Matthews:

I want to thank you again for testifying before the Government Reform Subcommittee on Regulatory Affairs in regards to Federal agency compliance with the Paperwork Reduction Act and efforts to reduce public burden. In response to the hearing, I am enclosing additional questions for the record.

Please hand-deliver DOT's response to the Subcommittee majority staff in B-373B Rayburn House Office Building and the minority staff in B-350A Rayburn House Office Building no later than 5:00 p.m. on Thursday, July 28, 2005. If you have any questions about this request, please contact Erik Glavich at 225-4407. Thank you for your attention to this matter.

Sincerely,

Candice S. Miller

Candice S. Miller
Chairman
Subcommittee on Regulatory Affairs

Enclosure

cc: The Honorable Tom Davis
The Honorable Stephen F. Lynch

Follow-Up Questions for the U.S. Department of Transportation

Hearing on June 14, 2005:
"Reducing the Paperwork Burden on the Public: Are Agencies Doing All They Can?"

Impediments to Reducing Burden

1. What are some examples of impediments to achieving greater burden reductions through DOT's active and proposed burden reduction initiatives? Are there ways Congress can assist agencies by removing statutory hurdles which unnecessarily impede burden reduction initiatives?

Information Collection Request Process

2. The GAO found that the agency CIOs in their study certified that the 10 standards of the PRA were satisfied even though support was either missing or partial. In your written testimony, you mention that Operating Administrations (OA) ICRs have been turned down in DOT's PRA process. How many ICRs were approved by DOT PRA Clearance Officers in fiscal year 2004, and how many were rejected and returned to OA program officials for improvement?

3. The PRA of 1995 and subsequent OMB guidance requires Federal agencies to establish a review process that minimizes the public burden imposed by information collections and ensures that only information necessary is collected. Has the PRA been effective in assisting DOT to minimize the public burden imposed by information collections? Please explain. Also, are their elements of the PRA you can identify as being particularly beneficial or as an impediment to your office's mission of minimizing burden and ensuring the practical utility of information collected? Please provide examples if possible.

4. How does your office ensure that burden estimates for collections are accurate? Please include two distinct elements in your response: (1) the time it takes a respondent to compile information and prepare for a collection's requirements, and (2) the time needed to process the paperwork and file the report.

Efforts to Reduce Burden

5. What has been the overriding element of success in ensuring that burden is minimized within DOT? Is the PRA the catalyst for this success, and would burden reduction initiatives at DOT be as successful without the PRA?

6. In your written testimony, you state: "DOT has initiated a cross-agency approach to institutionalize substantive burden reduction among its largest collections. This will be achieved through: an analysis of all information collections by the DOT CIO Council; the identification of reduction opportunities and the time period when those reductions may

occur (such as when collections are up for renewal); and the tracking of progress against stated objectives."

Please provide the Subcommittee with any materials that further explain how DOT is implementing or plans to implement this cross-agency approach to burden reduction. Also, what conditions prompted DOT to develop the burden reduction initiative you describe?

7. Has DOT ever established a policy of comprehensive review for significant collections up for renewal to find areas of improvement within both the collection itself and the agency's ICR process?

8. As the Congress considers the reauthorization of the PRA, what modifications to current law would assist DOT in accomplishing the objectives of minimizing burden and ensuring the practical utility of information collected? For example, would a Congressional mandate requiring agencies to submit to OMB a comprehensive review plan for significant existing collections ensure agencies are making burden reduction a priority? Please provide the Subcommittee with your recommendations for improving the PRA, and why any of your proposed changes would assist your office's efforts.

Cooperation Between Different Federal Agencies

9. List examples where DOT has worked with other Federal agencies to find areas to reduce duplication. Do DOT program officials routinely consult with officials from other Federal agencies and with the regulated community to help determine duplication within not only DOT, but across other Federal agencies as well?

Burden Reduction Through the Use of Information Technology

10. The use of technology and the implementation of e-Government initiatives have given Federal agencies an expansive array of opportunities to reduce burden. For example, you mentioned in your written testimony ways that the Federal Railroad Administration has used information technology to reduce burden. Does DOT have a policy or protocol in place to examine proposed and existing collections up for renewal to find ways the use of technology can lead to burden reductions? Also, how does DOT measure burden reduction through the use of information technology?

11. Describe DOT's role in the development of the "Business Gateway."

Public Consultation

12. The GAO recommends agencies consult with potential respondents to an information collection beyond the publication of *Federal Register* notices. This recommendation stems from the GAO's assertion that the PRA requires such action. What are the guidelines DOT has established for program officials regarding public consultation in addition to the required the 60-day *Federal Register* notice? For ICRs developed by

DOT, are the *Federal Register* notices generally sufficient in ensuring public consultation? Please explain.

13. *Federal Register* notices regularly include only the total burden imposed on the regulated community and the total burden per user but offer no explanation as to how the figures were developed. While giving the public an opportunity to comment on an ICR is important, it is difficult for affected parties to offer substantive comment when the basis for the burden hours proposed is not also made available in the *Federal Register* notice. How can agencies make the process for calculating burden more transparent?

U.S. Department of Transportation
Office of the Secretary of Transportation

400 Seventh St., S.W.
Washington, D.C. 20590

JUL 27 2005

The Honorable Candice S. Miller
Chairman, Subcommittee on Regulatory Affairs
Committee on Appropriations
U. S. House of Representatives
Washington, D. C. 20515

Dear Ms. Miller:

Thank you again for the opportunity to testify before the Government Reform Subcommittee on Regulatory Affairs in regard to the Department of Transportation's compliance with the Paperwork Reduction Act and efforts to reduce public burden. In response to the hearing, enclosed are responses to additional questions for the record. If you have any questions about the responses, please contact me or Darren Ash, of my staff, at (202) 366-9201.

Sincerely,

Daniel P. Matthews
DOT Chief Information Officer

Enclosure

cc: The Honorable Thomas M. Davis, III
The Honorable Stephen F. Lynch

Follow-Up Questions for the U.S. Department of Transportation

Hearing on June 14, 2005:
"Reducing the Paperwork Burden on the Public: Are Agencies Doing All They Can?"

Impediments to Reducing Burden

1. What are some examples of impediments to achieving greater burden reductions through DOT's active and proposed burden reduction initiatives?

   DOT's objective of not compromising public safety is an impediment to achieving burden reductions. The vast majority of DOT's information collection activities are safety-critical and driven by direct responses to statutory mandates concerning safety standards. Federal Motor Carrier Safety Administration's Hours of Service rule alone comprises 65 percent of the Department's entire burden hours. While DOT is constantly seeking ways to improve DOT's gathering methods, we must balance the reduction in burden hours with its impact on our safety mission.

   Are there ways Congress can assist agencies by removing statutory hurdles which unnecessarily impede burden reduction initiatives?

   Sometimes a statute stipulates in great detail what the Department will collect in applications for benefits under the statute. Such stipulations establish a minimum level of information burden that cannot be reduced by the Department. Leaving the determination of information to be collected to the Department would permit reduction when feasible. DOT should work closely with Congress as legislation is developed and inform staff about potential burden hour impacts. Additionally, Congress could reduce the amount of time that respondents must keep records and the frequency that responses must be submitted according to the statutes.

Information Collection Request Process

2. The GAO found that the agency CIOs in their study certified that the 10 standards of the PRA were satisfied even though support was either missing or partial. In your written testimony, you mention that Operating Administrations (OA) ICRs have been turned down in DOT's PRA process. How many ICRs were approved by DOT PRA Clearance Officers in fiscal year 2004, and how many were rejected and returned to OA program officials for improvement?

   DOT's PRA Clearance Officer approved 127 ICRs during fiscal year 2004 and returned approximately 80 to the OA program officials for improvements.

3. The PRA of 1995 and subsequent OMB guidance requires Federal agencies to establish a review process that minimizes the public burden imposed by information collections and ensures that only information necessary is collected. Has the PRA been effective in assisting DOT to minimize the public burden imposed by

information collections? Please explain. Also, are their [sic] elements of the PRA you can identify as being particularly beneficial or as an impediment to your office's mission of minimizing burden and ensuring the practical utility of information collected? Please provide examples if possible.

The PRA has been extremely helpful in DOT's efforts to minimize the public burden imposed by information collections requests. The review process is such that only information that is absolutely necessary to the function of the Department is collected, and that the processes for gathering this information is as efficient as possible and imposes the minimum possible burden on the public. Program officials regularly consult with the CIO and General Counsel's offices to determine whether the PRA will apply to an activity, and this determination often affects whether and how programs collect information.

However, one element that has been a detriment to ensuring that DOT achieve the maximum practical utility for DOT's information collections requests is the publication of multiple Federal Register notices for some of the smaller collections, particularly for collections in which participation is voluntary. In these cases, compliance with the paperwork, administrative burdens, and delays required by the PRA is not cost-effective. Often, the time and expense involved acts as a roadblock to collections that would be of great benefit to the affected public, particularly customer satisfaction surveys. These surveys offer a voice to the respondents that neither the Program Office nor the affected public would characterize as a "burden." When one simply looks at the raw burden hour numbers for DOT's information collection activities as a whole, that fact is easily overlooked.

4. How does your office ensure that burden estimates for collections are accurate? Please include two distinct elements in your response: (1) the time it takes a respondent to compile information and prepare for a collection's requirements, and (2) the time needed to process the paperwork and file the report.

   DOT ensures that all burden estimates are accurate through an examination process involving both DOT's Program Office subject matter experts and a direct examination of the collection instruments by DOT's PRA process team. Many times, the Program Office engages in a step-by-step breakdown of each element of the collection, how it is gathered, processed, and stored, often simulating the process of fulfilling the collection request, in order to determine as closely as possible how long the process should take on average. However, there are collections for which such a simulation is impossible, and for those, DOT relies on the expertise of DOT's Program Office personnel. In some cases, DOT is able to check estimates through informal contacts with fewer than 10 regulated parties.

   Another method used to ensure burden estimates are accurate, is through the public comment period provided in the Federal Register. Members of the public have the opportunity to review specific proposed/current agency information collections requests and assess their individual paperwork requirements and associated burden estimates.

Efforts to Reduce Burden

5. What has been the overriding element of success in ensuring that burden is minimized within DOT? Is the PRA the catalyst for this success, and would burden reduction initiatives at DOT be as successful without the PRA?

   The Department's policy is to minimize burdens on the public, whether or not those burdens are covered by the PRA, consistent with achieving the Department's safety and other program objectives. The PRA has been an important element in DOT's efforts to ensure that the burden hours placed on the public are minimized. Since the Act clearly states that the Department should minimize the burden, DOT puts forth every effort in minimizing burden on the public without jeopardizing the mission of the department. DOT has made significant efforts to use electronic technology in collections, where feasible. The burden reduction initiative complements DOT's efforts to meet PRA objectives.

   Without the PRA, there would be many, more unnecessary collections of information that DOT would pursue because they seemed desirable and because no compelling rationale or justification for them was required in order to go forward. The PRA provides an important and essential check or screening mechanism that eliminates unnecessary or wishful collections of information within DOT. The amount of paperwork imposed on the public and the time and cost burdens associated with such increased paperwork would increase exponentially without the PRA and its requirements.

6. In your written testimony, you state: "DOT has initiated a cross-agency approach to institutionalize substantive burden reduction among its largest collections. This will be achieved through: an analysis of all information collections by the DOT CIO Council; the identification of reduction opportunities and the time period when those reductions may occur (such as when collections are up for renewal); and the tracking of progress against stated objectives."

   Please provide the Subcommittee with any materials that further explain how DOT is implementing or plans to implement this cross-agency approach to burden reduction.

   At this point in time, OCIO's burden reduction initiative is still in the planning stages. The DOT OCIO will send a memo to Heads of Operating Administrations, Departmental Officers and Chief Information Officers to kick-off this initiative in Q4 FY05. The approach will be a cross-agency approach to institutionalize substantive burden reductions efforts to 1) reduce the burden per response; 2) promote where feasible the use of electronic reporting; making adjustments where possible to the frequency of the collection; and 3) creating partnerships internal to DOT and with other Federal agencies to ensure there is no duplicative reporting and to maximize data sharing.

Also, what conditions prompted DOT to develop the burden reduction initiative you describe?

Three prevailing conditions prompted the need for an agency-wide burden reduction collection initiative:

- A single high burden hour collection, Federal Motor Carrier Safety Administration's Hours of Service rule which comprises 65% of the Department's entire burden hours.
- Consistent increases in burden reporting each year; and,
- Recommendations from OMB and Congress.

7. Has DOT ever established a policy of comprehensive review for significant collections up for renewal to find areas of improvement within both the collection itself and the agency's ICR process?

   DOT has not yet established a policy of comprehensive review for significant collections that are up for renewal. However, OCIO strongly encourages the operating administrations to look into further ways of reducing the burden hours on the public when their ICRs are up for renewal or regulations (e.g., Hours of Service) are being revised. In addition, once the burden reduction initiative plan is in place, OCIO expects this will encourage the operating administration to take a closer review of their ICRs for additional burden hour reductions.

8. As the Congress considers the reauthorization of the PRA, what modifications to current law would assist DOT in accomplishing the objectives of minimizing burden and ensuring the practical utility of information collected? For example, would a Congressional mandate requiring agencies to submit to OMB a comprehensive review plan for significant existing collections ensure agencies are making burden reduction a priority? Please provide the Subcommittee with your recommendations for improving the PRA, and why any of your proposed changes would assist your office's efforts.

   The PRA Act, for the most part, works well in accomplishing the objective of minimizing burden and ensuring the practical utility of the information collected. A Congressional mandate requiring agencies to submit to OMB a comprehensive review plan for significant existing collections to ensure that agencies are making burden reduction a priority would be counter productive and redundant. DOT already carefully reviews existing significant collections in complying with the requirements of the PRA and the Government Paperwork Elimination Act (GPEA).

   DOT operating administrations are aware of the importance and necessity of reducing overall burden totals. The most effective way to accomplish this priority is to reduce the burden of significant existing agency information collections. At each renewal of significant existing collections or revision of the associated regulations, DOT's operating administrations carefully examines ways to further reduce burden hours. Implementation of advanced information technology, particularly electronic record keeping, has been one method whereby one of DOT's operating administrations has

achieved substantial burden reduction for significant existing agency information collections.

The Department has a few suggestions for improving the PRA. First, as noted above, reducing duplicative Federal Register notice requirements is desirable. Second, it would be useful to eliminate PRA clearance requirements for voluntary collections of information. The major sanction for failing to obtain PRA clearance – inability to enforce uncleared requirements – is irrelevant to voluntary collections, and it is difficult, conceptually, to address as a "burden" something that a party can choose to do or not, as it pleases. Third, there should be a threshold number of burden hours for a collection below which PRA clearance could be granted by the agency, without the necessity of action by OMB (the CIO could report these collections to OMB subsequently). This would eliminate paperwork and delay for the smallest collections, which have only a minimal effect on the agency's overall burden statistics. Fourth, the across-the-board percentage burden reduction targets in the PRA are often unrealistic in practice. A more targeted, narrowly-tailored approach should be sought (e.g., one that differentiates between "discretionary" and "non-discretionary" collections).

Cooperation Between Different Federal Agencies

9. List examples where DOT has worked with other Federal agencies to find areas to reduce duplication. Do DOT program officials routinely consult with officials from other Federal agencies and with the regulated community to help determine duplication within not only DOT, but across other Federal agencies as well?

   The DOT Office of Drug and Alcohol Policy and Compliance (ODAPC) rewrote its regulation – 49 CFR Part 40 – in 2000. For that rewrite, the Department reviewed its entire drug and alcohol testing regulations (i.e., Part 40 and 6 DOT Agency regulations) in an effort to ensure that there were no duplication of burden costs between and among the DOT agencies, to weed-out burden costs that were no longer appropriate to account for, to harmonize and standardize DOT agency reporting requirements, and to ensure the accuracy of the data that was submitted by the DOT agencies and ODAPC. The rewrite of Part 40 was instrumental because the ODAPC wanted accurately account for its paperwork requirements. The Part 40 review revealed that ODAPC was, among other things, accounting for hours for a drug testing form that was developed and used by the Department of Health and Human Services (HHS), thus DOT and HHS had been double-counting the burden inventory for the form. This was due to the fact that OMB had already approved HHS burden accounting for the form. HHS agreed to continue its ownership of the burden hours. This item, among other adjustments to Part 40's burden hours, enabled DOT to adjust its burden hours by (1,750,840).

Burden Reduction Through the Use of Information Technology

10. The use of technology and the implementation of e-Government initiatives have given Federal agencies an expansive array of opportunities to reduce burden. For

example, you mentioned in your written testimony ways that the Federal Railroad Administration has used information technology to reduce burden. Does DOT have a policy or protocol in place to examine proposed and existing collections up for renewal to find ways the use of technology can lead to burden reductions? Also, how does DOT measure burden reduction through the use of information technology?

DOT does not currently have a policy or protocol in place to examine proposed or existing collections that are up for renewal to find ways the use of technology can lead to burden reduction. However, the OCIO encourages the use of electronic technology when feasible for reducing the burden hours and keeping the safety of the public first. One recent example of an initiative to use technology to reduce burdens is the FAA's "DBE Office Online Reporting System" (DOORS). This system, developed by FAA regional office staff, simplifies and expedites reporting by airports of disadvantaged business enterprise program data to the FAA Office of Civil Rights.

DOT does not have a mechanism in place to measure burden reduction through the use of IT. The use of IT does not always mean there will be a reduction in burden hours. The process can take the same amount of time, but the use of IT, makes the process easier. However, there are cases were the use of IT can be beneficial in the reduction of burden hours. FRA achieved significant burden reduction through its promotion of electronic recordkeeping among respondents. FRA measures burden reduction through the use of this IT in terms of the number of hours and dollars saved in comparison to respondents recording and maintaining the same information on paper.

11. Describe DOT's role in the development of the "Business Gateway."

DOT is an active leader in the Business Gateway Initiative. DOT is represented on the Governance Board, Advisory Board and all working groups, including the FY06/07 funding, e-forms portal, compliance assistance, and trucking vertical harmonization pilot project workgroups.

Public Consultation

12. The GAO recommends agencies consult with potential respondents to an information collection beyond the publication of *Federal Register* notices. This recommendation stems from the GAO's assertion that the PRA requires such action. What are the guidelines DOT has established for program officials regarding public consultation in addition to the required the 60-day *Federal Register* notice? For ICRs developed by DOT, are the *Federal Register* notices generally sufficient in ensuring public consultation? Please explain.

DOT does not have a policy for the program official to consult with potential respondents beyond the 60-day Federal Register notice. Depending upon the nature of the ICR, though, some program officials seek outside consultation. One instance in which this may happen is when a proposed ICR is part of a rulemaking, in which outside parties consult with the Department on a variety of issues. The public has

opportunities to comment at the 60-day and 30-day Federal Register notice comment period. This is considered sufficient.

13. *Federal Register* notices regularly include only the total burden imposed on the regulated community and the total burden per user but offer no explanation as to how the figures were developed. While giving the public an opportunity to comment on an ICR is important, it is difficult for affected parties to offer substantive comment when the basis for the burden hours proposed is not also made available in the *Federal Register* notice. How can agencies make the process for calculating burden more transparent?

    The two required Federal Register notices provide helpful information to the public and affected parties concerning proposed/current agency information collection activities. It is possible that greater public participation via increased comment would serve to both increase the practical utility of these activities and enhance the accuracy of agency burden estimates. Agencies could increase usefulness of these notices by providing additional information in them about the way in which burden estimates were calculated. In rulemakings, this is often done as part of regulatory evaluations that are available in the public docket, but it is less likely to happen currently in connection with non-regulatory ICRs.

TOM DAVIS, VIRGINIA,
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ELEANOR HOLMES NORTON,
DISTRICT OF COLUMBIA

BERNARD SANDERS, VERMONT,
INDEPENDENT

July 6, 2005

The Honorable Patrick Pizzella
Assistant Secretary for Administration and Management
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

Dear Mr. Pizzella:

I want to thank you again for testifying before the Government Reform Subcommittee on Regulatory Affairs in regards to Federal agency compliance with the Paperwork Reduction Act and efforts to reduce public burden. In response to the hearing, I am enclosing additional questions for the record.

Please hand-deliver DOL's response to the Subcommittee majority staff in B-373B Rayburn House Office Building and the minority staff in B-350A Rayburn House Office Building no later than 5:00 p.m. on Thursday, July 28, 2005. If you have any questions about this request, please contact Erik Glavich at 225-4407. Thank you for your attention to this matter.

Sincerely,

Candice S. Miller
Chairman
Subcommittee on Regulatory Affairs

Enclosure

cc: The Honorable Tom Davis
The Honorable Stephen F. Lynch

Follow-Up Questions for the U.S. Department of Labor

Hearing on June 14, 2005:
"Reducing the Paperwork Burden on the Public: Are Agencies Doing All They Can?"

DOL Information Collections: General Information

1. As previously requested, how many active information collections are maintained by DOL. Also, how many new collections and renewals which require OMB approval are expected for both fiscal years 2005 and 2006?

2. In your comments provided to GAO in response to its draft report, *Paperwork Reduction Act: A New Approach May Be Needed to Reduce Government Burden on Public*, you state DOL is "moving to consolidate production of all our public web sites, and to bring the publication of forms on websites into alignment with the DOL's PRA process."

   According to the final report, your office will work with DOL's Office of Public Affairs to ensure that all items posted on agency web sites are fully PRA-compliant. Please provide details concerning DOL's process of making existing electronic documents PRA-compliant. Also, will program officials be required to obtain approval before making any item subject to the PRA available on agency web sites? Please describe any active or proposed initiatives within the DOL to ensure that all forms of public information, regardless of format, are PRA-compliant.

3. How many full-time equivalents (FTEs) in the Office of the Chief Information Officer are responsible for reviewing and approving Information Collection Requests submitted by Agency Clearance Officers?

Impediments to Reducing Burden

4. In Attachment A of your written testimony, you discuss burden reduction initiatives dating back to fiscal year 2002. You cite 12 initiatives, with the status of three classified as "delayed." Though you give explanations for the delays experienced with these three initiatives, are there general impediments to achieving greater burden reductions that DOL must take into account throughout the development of reduction initiatives? Are there ways Congress can assist your agency by removing statutory hurdles which unnecessarily impede burden reduction initiatives?

Information Collection Request Process

5. The GAO found that the agency CIOs in their study certified that the 10 standards of the PRA were satisfied even though support was either missing or partial. The Department of Labor was one of the four agencies subject to GAO's review. Have any active or proposed changes been made to DOL's PRA review process as a result of GAO's findings?

6. In your written testimony, you describe the responsibilities of the Departmental Clearance Officer. How many ICRs were approved by DOL Departmental Clearance Officers in fiscal year 2004, and how many were rejected and returned to an Agency Clearance Officer for improvement?

7. The PRA of 1995 and subsequent OMB guidance requires Federal agencies to establish a review process that minimizes the public burden imposed by information collections and ensures that only information necessary is collected. Has the PRA been effective in assisting DOL in minimizing the public burden imposed by information collections? Please explain. Also, are their elements of the PRA you can identify as being particularly beneficial or as an impediment to your office's mission of minimizing burden and ensuring the practical utility of information collected? Please provide examples if possible.

8. How does your office ensure that burden estimates for collections are accurate? Please include two distinct elements in your response: (1) the time it takes a respondent to compile information and prepare for a collection's requirements, and (2) the time needed to process the paperwork and file the report.

Efforts to Reduce Burden

9. Has DOL ever undertaken a cross-agency approach to burden reduction, where different DOL program offices work together to find areas to improve the efficiency of collections? If no, has such an approach been considered? Please explain why such an approach may or may not be successful at DOL.

10. Has DOL ever established a policy of comprehensive review for significant collections up for renewal to find areas of improvement within both the collection itself and the agency's ICR process?

11. As the Congress considers the reauthorization of the PRA, what modifications to current law would assist DOL in accomplishing the objectives of minimizing burden and ensuring the practical utility of information collected? For example, would a Congressional mandate requiring agencies to submit to OMB a comprehensive review plan for significant existing collections ensure agencies are making burden reduction a priority? Please provide the Subcommittee with your recommendations for improving the PRA and the reasons why any of your proposed changes would assist your office's efforts.

Cooperation Between Different Federal Agencies

12. Can you discuss a few specific examples where DOL has worked with other Federal agencies to find areas to reduce duplication? Do DOL program officials routinely consult with officials from other Federal agencies and with the regulated community to help determine duplication within not only DOL, but across other Federal agencies as well?

Burden Reduction Through the Use of Information Technology

13. The use of technology and the implementation of e-Government initiatives have given Federal agencies an expansive array of opportunities to reduce burden. For example, you stress the assessment of the use of technology as a main strategy within DOL's PRA review process. Furthermore, you highlight DOL's E-Grants initiative, among others, as ways the Department is utilizing technology. Does DOL have a policy or protocol in place to examine proposed and existing collections up for renewal to find ways the use of technology can lead to burden reductions? Also, how does DOL measure burden reduction through the use of information technology?

14. Describe DOL's role in the development of the "Business Gateway."

Public Consultation

15. The GAO recommends agencies consult with potential respondents to an information collection beyond the publication of *Federal Register* notices. This recommendation stems from the GAO's assertion that the PRA requires such action. What are the guidelines DOL has established for program officials regarding public consultation in addition to the required the 60-day *Federal Register* notice? For ICRs developed by DOL, are the *Federal Register* notices generally sufficient in ensuring public consultation? Please explain.

16. *Federal Register* notices regularly include only the total burden imposed on the regulated community and the total burden per user but offer no explanation as to how figures were developed. While giving the public an opportunity to comment on an ICR is important, it is difficult for affected parties to offer substantive comment when the basis for the burden hours proposed is not also made available in the *Federal Register* notice. How can agencies make the process for calculating imposed burden more transparent?

Follow-Up Questions for the U.S. Department of Labor

"Reducing the Paperwork Burden on the Public: Are Agencies Doing All They Can?"

DOL Information Collections: General Information

1. **As previously requested, how many active information collections are maintained by DOL?**

   As of 7/31/05, DOL has 403 active information collections with a total burden of 166 million hours and $ 2.2 billion in cost burden.

   Also, how many new collections and renewals, which require OMB approval, are expected for both fiscal years 2005 and 2006?

   We expect 10 new collections of information in FY 2005. We do not have any solid data for FY 2006. We will have a better picture when we begin preparing for the FY 2006 ICB in the fall of this year (NOTE: Since 1998, DOL tends to stay around 400 active collections ranging from 395 to 411).

2. **In your comments provided to GAO in response to its draft report, *Paperwork Reduction Act: A New Approach May be Needed to Reduce Government Burden on the Public,* DOL states it is "moving to consolidate production of all our public web sites, and to bring the publication of forms on the website into alignment with the DOL's PRA process."**

   According to the final report, your office will work with DOL's Office of Public Affairs to ensure that all items posted on agency web sites are fully PRA-compliant. Please provide details concerning DOL's process of making existing electronic documents PRA compliant.

   The Department plans to improve its oversight of public use forms posted on its Web sites using the following strategies:

   1) Annually auditing its agencies' Web sites to ensure that all forms display a currently valid OMB control number as well as other information required by the PRA.
   2) Amending its internal policy directive to require its agencies to ensure that all discontinued forms are removed from the Web site within five business days of being discontinued and that revised forms replace previous versions within five business days of OMB approval. The amended directive will also require agencies to audit their Web sites at least quarterly to ensure that all forms display a currently valid OMB control number as well as other information required by the

PRA. Additionally, the Department will include PRA compliance in its internal e-government scoring criteria.
3) Developing a checklist to assist both internal reviewers as well as Web site content managers in assuring that all PRA-required information is clearly displayed on all public use forms posted on the Department's Web sites.

Also, will program officials be required to obtain approval before making any item subject to the PRA available on agency web sites?

Yes. Only OMB approved forms are placed on DOL's web page. If any agency makes any "substantive" changes an ICR is required to be submitted to OMB for approval. If the changes are non-substantive, DOL submits a copy of the form and identifies the changes along with an OMB Form 83-C (Paperwork Reduction Act Information Change Work Sheet) to OMB.

Please describe any active or proposed initiatives within the DOL to ensure that all forms of public information, regardless of format, are PRA compliant.

As mentioned above, DOL intends to revise our directives (DOL Manual Series) and cite the review process for approved forms on DOL's web page. Hard copy forms are currently reviewed by the OCIO and included in the ICR to OMB. Once OMB has approved the ICR, agencies provide a copy of the form to the OCIO. The form is reviewed again to ensure that it is PRA compliant and placed in the approved ICR.

3. **How many full-time employees (FTEs) in the Office of the Chief Information Officer are responsible for reviewing and approving Information Collection Requests submitted by Agency Clearance Officers?**

   Two

Impediments to Reducing Burden

4. **In Attachment A of your written testimony, you discuss burden initiatives dating back to fiscal year 2002. You cite 12 initiatives, with the status of three classified as "delayed." Though you give explanations for the delays experienced with these three initiatives, are there general impediments to achieving greater burden reductions that DOL must take into account throughout the development of reduction initiatives?**

   DOL has identified no general impediments to achieving greater burden reductions. Some of the reasons for the delay in the above referenced initiatives were due to a changes in management's policy direction, and changes in priorities.

Are there ways Congress can assist your agency by removing statutory hurdles which unnecessarily impede burden reduction initiatives?

No, DOL does not face statutory hurdles in reducing paperwork burden.

Information Collection Request Process

5. **The GAO found that the agency CIOs in their study certified that the 10 standards of the PRA were satisfied even though support was either missing or partial. The Department of Labor was one of the four agencies subject to GAO's review. Have any active or proposed changes been made to DOL's PRA review process as a result of GAO's findings?**

   Yes. The Department will incorporate an addendum to the current OMB Form 83-I, Supporting Statements for Paperwork Reduction Act Submissions, that will strengthen its support for the certifications contained in 5 CFR 1320.9. Additionally, the Department will provide guidance to its agencies on ensuring that information collection requests contain strong support for the necessity of a collection, burden reduction efforts, and plans for the use of information collected.

6. **In your written testimony, you describe the responsibilities of the Departmental Clearance Officer. How many ICRs were approved by DOL's Departmental Clearance Officer in fiscal year 2004, and how many were rejected and returned to an Agency Clearance Officer for Improvements?**

   The Departmental Clearance Officer certified approximately 120 ICRs in fiscal year 2004. Almost all ICRs generate OCIO comments. The Departmental Clearance Officer rejected one ICR for FY 2004.

7. **The PRA of 1995 and subsequent OMB guidance requires Federal agencies to establish a review process that minimizes the public burden imposed by information collections and ensures that only information necessary is collected. Has the PRA been effective in assisting DOL in minimizing the public burden imposed by information collections? Please explain.**

   Yes, the PRA and subsequent OMB guidance provide the legal and procedural policies for DOL's information collection management program and associated management directive. Under the authority of the PRA, the CIO is able to ensure that DOL's information collection activities are necessary, have practical utility, and are conducted in a manner that minimizes public burdens. For example, every new or revised collection of information is reviewed by the CIO under the PRA and all existing collections are reassessed every three years. In FY 2004, routine reviews resulted in 10 collections[1] being discontinued.

[1] Only includes actual discontinued collections; does not include periodic surveys that entered a hiatus period or merged OMB control numbers.

Also, are there elements of the PRA you can identify as being particularly beneficial or as an impediment to your office's mission of minimizing burden and ensuring the practical utility of information collected? Please provide examples if possible.

DOL has found two aspects of the PRA particularly beneficial to the CIO's mission of minimizing burden and ensuring the practical utility of information collected. The independent CIO review required by the PRA and the 60-day public notification requirement ensure that all proposed collections of information are objectively reviewed for practical utility and minimal practical burden before submitting them to OMB. The 60-day public notification also ensures stakeholder involvement in DOL's information collection activities.

8. **How does your office ensure that burden estimates for collections are accurate? Please include two distinct elements in your response: (1) the time it takes a respondent to compile information and prepare for a collection's requirements, and (2) the time needed to process the paperwork and file the report.**

   The accuracy of DOL's estimates of burden (both the time to compile and to report information) are tested using three different strategies:

   1. The CIO performs an independent review of the program burden estimates in order to ensure that estimates are accurate and realistic. Additionally, at least every three years, burden estimates are reevaluated for current accuracy.

   2. *Federal Register* notices solicit input from interested parties as to the accuracy of burden estimates.

   3. In the case of reporting requirements, collection instruments disclose the estimated burden and solicit input from interested parties as to the accuracy of burden estimates as well as suggestions for reducing burden.

Efforts to Reduce Burden

9. **Has DOL ever undertaken a cross-agency approach to burden reduction, where different DOL program offices work together to find areas to improve the efficiency of collections?**

   Yes. DOL has undertaken a cross-agency approach to burden reduction, where different DOL program offices work together to find areas to improve the efficiency of collections. For example, in January 2005, DOL prepared *The Department of Labor's Small Business Paperwork Relief Act Plan* which was

submitted to OMB as part of the FY 2005 Information Collection Budget. This plan includes specific strategies to reduce burden on small businesses. A key element of DOL's Small Business Paperwork Relief Act strategy is our compliance assistance initiative. Furthermore, a cornerstone of DOL's compliance assistance initiative is DOL's efforts to assist employers, particularly small employers, in understanding and complying with their obligations related to paperwork burden issues.

Another example of DOL's cross-agency approach to reduce burden is the establishment of "elaws". As a Department-wide compliance assistance initiative, elaws provides interactive on-line tools which help employers and workers understand their rights and responsibilities under Federal employment law. During FY2004, three new tools were added to our elaws library. The newest additions help employers and employees understand the updated overtime rules for white collar workers, help Federal contractors understand their responsibilities with respect to affirmative action, and help mine owners fulfill many of their reporting requirements.

If no, has such an approach been considered? Please explain why such an approach may or may not be successful at DOL.

As evidenced by the examples stated above, the Department feels that such an approach has been and will continue to be successful.

10. **Has DOL ever established a policy of comprehensive review for significant collections up for renewal to find areas of improvement within both the collection itself and the agency's ICR process?**

There is no written policy; however, improving the collection and reducing the data elements is always part of the OCIO's review.

11. **As the Congress considers the reauthorization of the PRA, what modifications to current law would assist DOL in accomplishing the objectives of minimizing burden and ensuring the practical utility of information collected? For example, would a Congressional mandate requiring agencies to submit to OMB a comprehensive review plan for significant existing collections ensure agencies are making burden reduction a priority? Please provide the Subcommittee with your recommendations for improving the PRA and the reasons why any of your proposed changes would assist your offices effort.**

A Congressional mandate requiring agencies to submit to OMB a comprehensive review plan for significant existing collections could potentially result in some burden reduction by elevating the burden reduction initiatives required by OMB in the past several Information Collection Budgets. However, DOL believes that targeting collections simply based on total burden hours would not necessarily

result in the most public benefit. A better approach would be to assess the cost-benefit of existing collections and focus efforts on reforming or eliminating those with a low cost-benefit ratio.

Cooperation Between Different Federal Agencies

12. Can you discuss a few specific examples where DOL has worked with other Federal agencies to find areas to reduce duplication?

Yes. The Department is an active partner with the Grants.gov initiative. Grants.gov is an enterprise-wide response to the President's Management Agenda for an electronic government by streamlining and automating the application and management process for Federal grant programs. The "APPLY" portion of Grants.gov (also known as "E-Grants") eliminates redundant or disparate data collection requirements and improves efficiency, simplifies the grant application procedures through standardized processes and data definitions, and improves services to constituents.

DOL serves on the executive board of Grants.gov providing both financial resources and strategic direction to this initiative. DOL also manages its solicitations for grant applications (SGAs) through Grants.gov by both posting its SGAs on this Web site and providing for the electronic submission of grant applications using its automated application tools.

Another example of where DOL has worked with other Federal agencies to reduce duplication is the Mine Safety and Health Administration's active participation in the Single Source Coal Reporting (SSCR) project. SSCR is aimed at reducing the burden for industry and expanding the use of electronic services for government compliance. The Single Source Coal Reporting e-Form test pilot was partially funded by the Small Business Administration's One-Stop Business Compliance Presidential Quicksilver Initiative. When fully implemented, industry will submit required data once, and the federal and state agencies will share that data.

Every coal producer in the U.S. must report their production activity and other information to the federal and applicable state agency. In addition, some coal producers must report this information to tribal agencies. Currently, each agency collects data through separate processes and forms, requiring the coal producers to report very similar data multiple times to multiple agencies. SSCR is an initiative to streamline the coal reporting process by consolidating, automating, and simplifying the data reporting requirements of the multiple agencies. The SSCR solution will consolidate multiple agency reporting processes into a single process from the perspective of the filer. With SSCR, permitees, operators, and/or contractors (collectively, "Reporting Entities") will report all required information once, through a single process.

Do DOL program officials routinely consult with officials from other Federal agencies and with the regulated community to help determine duplication within not only DOL, but across other Federal agencies as well?

DOL does occasionally consult with the regulated community and other Federal agencies to determine duplication on an ad hoc basis.

Burden Reduction Through the Use of Information Technology

13. The use of technology and the implementation e-Government initiatives has given Federal agencies an expansive array of opportunities to reduce burden. For example, you stress the assessment of the use of technology as a main strategy within DOL's PRA review process. Furthermore, you highlighted DOL's E-Grants initiative, among others, as ways the Department is utilizing technology. Does DOL have a policy or protocol in place to examine proposed and existing collections up for renewal to find ways the use of technology can lead to burden reductions?

Currently DOL does not have written policy to utilize technology to reduce burden on the public; however, it is constantly looking for methods that could help reduce burden.

Also, how does DOL measure burden reduction through the use of information technology?

In most cases, the actual burden savings can only be quantified by experience after the automation of a given collection instrument is implemented. As with paper collections, burden estimates are disclosed on the collection instrument and respondents are consulted as to the accuracy of the estimates.

14. Describe DOL's role in the development of the "Business Gateway."

As a contributing partner to the Government to Business E-Gov Presidential Initiative, the Department of Labor has representatives on both the Advisory Board and Governance Board. DOL participates in the strategic development of the Business Gateway scope and goals, as well as creation of its financial model. DOL also works with Business Gateway on forms processing, as well as integrating an electronic cross-agency compliance assistant tool.

15. The GAO recommends agencies consult with potential respondents to an information collection beyond the publication of Federal Register notices. This recommendation stems from the GAO's assertion that the PRA requires such action. What are the guidelines DOL has established for program officials

regarding public consultation in addition to the required 60-day Federal Register notice?

DOL currently has not established any guideline. Please refer to response number 2.

For ICRs developed by DOL, are the Federal Register notices generally sufficient in ensuring public consultation? Please explain.

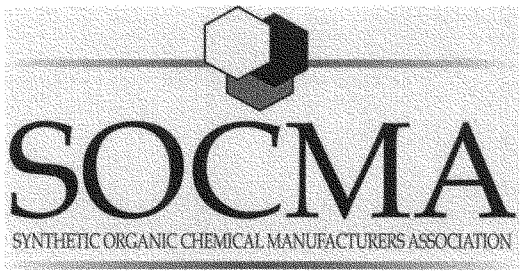
It depends upon the type of ICR. At DOL, significant new or revised collections, potentially controversial collections, and collections in new rules generally involve public consultation that extends beyond the Federal Register notices. Such consultation may include consultations with stakeholders, town hall meetings or consultation with industry experts. However, we believe that for routine renewals and minor or non-controversial collections (many of which are never commented upon during the 60-day public comment process), the 60-day comment process alone is sufficient to ensure public consultation.

16 ***Federal Register* notices regularly include only the total burden imposed on the regulated community and the total burden per user but offer no explanation as to how figures were developed. While giving the public an opportunity to comment on an ICR is important, it is difficult for affected parties to offer substantive comment when the basis for the burden hours proposed is not also made available in the *Federal Register* notice.**

The purpose of the *Federal Register* notices is to alert the public that an Agency is either seeking an extension of a currently approved collection of information or proposing a new or revised collection. The notice is not intended to go into lengthy discussion of how burden hours and costs are calculated. The public has easy access to the Information Collection Request (ICR) which provides a detailed explanation of burden-hour and cost estimates; including underlying assumptions. Each notice provides instructions on how to obtain the ICR.

How can agencies make the process for calculating imposed burden more transparent?

DOL views the process for calculating burden as sufficiently transparent. Transparency is obtained through two separate *Federal Register* notices which provide the public with opportunities to comment on the accuracy of burden estimates. More over, the assumptions underlying burden calculations are explained in each information collection request (ICR). Instructions for obtaining the ICR are provide in each *Federal Register* notice. However, the Department believes burden calculations would be more meaningful if the focus would shift from simply calculating burden to assessing the cost-benefit of imposed public burden.



Post Hearing Comments

by the

Synthetic Organic Chemical Manufacturers Association

for the

House Government Reform Committee

Subcommittee on Regulatory Affairs

On

"Reducing the Paperwork Burden on the Public:
Are Agencies Doing All They Can?"

July 27, 2005

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Introduction

The Synthetic Organic Chemical Manufacturers Association ("SOCMA") is pleased to offer comments on the following topic: "Reducing the Paperwork Burden on the Public – Are Agencies Doing All They Can?" SOCMA appreciated the opportunity to present testimony to the Subcommittee on Regulatory Affairs at the June 14, 2005 hearing and would like to supplement that testimony with the following discussion.

SOCMA is the leading trade organization representing batch manufacturers of specialty and custom chemicals, including many of the key ingredients found in pharmaceuticals, soaps, cosmetics, plastics, and many other industrial and construction products. SOCMA has approximately 300 member companies, representative of the 1,700+ batch processing facilities producing a vast array of chemicals manufactured in the U.S., at an estimated annual value of $60 billion. Over 75% of SOCMA's active members are small businesses.

SOCMA's comments focus on two particular weaknesses in implementing the Paperwork Reduction Act: the cumulative effect of numerous regulatory requirements on affected facilities and inaccuracies in calculating the burden imposed by certain regulations. Federal regulators have made significant strides in assessing and reducing the readily identifiable burdens, but regulatory burden still weighs on the chemical industry in terms of both cost and paperwork. Our comments will identify some areas where burden reduction efforts have fallen short and some where it has proved effective. We also recommend increased transparency in burden calculation and greater involvement in the overall process by the regulated community.

Cumulative Effect

When discussing the cumulative effect of regulatory requirements, we are referring to the number of records and reports for which a facility is responsible, including both overlapping and separate requirements imposed by state and federal regulators. In many cases, states are free to impose tougher standards on industry than are imposed by the federal government. The results are often regulatory strategies with similar goals, but very different requirements.

Consider the experience of one typical SOCMA member company. This company is a small, single-plant company with approximately 110 employees and only one full time employee dedicated to environmental compliance. The company has annual sales of $20 million; it makes fifty to eighty different products per year, some are trials made only once, and some are full production runs that could be made repeatedly, or even continuously. Management of environmental compliance is more burdensome for a trial process as compared to a continuous process. A manufacturer that produces multiple products and trials has to repeat environmental compliance management procedures (i.e. air permitting) for each change that triggers a specific regulation versus a continuous process where the

initial effort to manage compliance may be large at first but reduces over time. The company is subject to over 150 state and federal environmental regulations, must keep records to satisfy 98 different regulatory requirements, and is obligated to submit at least 48 environmental reports per year. These regulations and specific requirements are detailed in Exhibit 2, which is attached to this testimony.

Alone, none of these requirements seems unbearable. Only when they are aggregated is the extent of the regulatory burden clear – especially when it all falls on the shoulders of a single environmental professional who may also be responsible for all safety and health requirements.

The burden imposed by overlapping and duplicative state and federal requirements was highlighted repeatedly by SOCMA members when solicited for input on the June 14 hearing. The Paperwork Reduction Act does not currently require federal agencies to examine the burdens imposed by state governments, but the Act should ensure that these state-imposed requirements are imposed under a federal authorization. Admittedly, requiring a federal agency to examine state regulations when searching for duplicative requirements would be an imposing task. However, it is an even more imposing task for the single environment, health, and safety employee at a small manufacturing plant.

Inaccurate Calculation of Burden

In addition to not capturing the burden associated with cumulative requirements, the Act enables agencies to be overly conservative in their assessment of burden imposed by a particular regulatory requirement. This consistent under-estimation of regulatory burden prevents Congress, federal regulators, interested citizens, and regulated businesses from understanding the full scope of the regulatory burden imposed on the regulated community. Two specific examples described below illustrate this problem. SOCMA's additional comments address several other paperwork reduction topics, including EPA's RCRA Burden Reduction Initiative; the burdens associated with electronic recordkeeping and reporting; and some positive examples of burden reduction. Exhibit 1 details a number of other regulations where unnecessary burdens could be reduced.

Toxic Release Inventory

The first example, EPA's Toxic Release Inventory ("TRI") reporting requirements, serves as a prime example of both problems: the cumulative effects of regulatory burdens; and underestimating burden hours. This rule has been a major focus of EPA's burden reduction efforts over the past several years, and EPA has claimed positive results. At the time of EPA's last Information Collection Request to the Office of Management and Budget, the reported burden for repeat filers purportedly dropped from 47.1 hours to 14.5 hours. (68 Fed. Reg. 39078, July 1, 2003.) In contrast, one SOCMA member, who is a repeat filer, spent approximately 250 hours completing his TRI reports in 2003. Additional requirements imposed by the state add another 80 hours to this total.

This member company is a typical SOCMA member and operates a small plant engaged in specialty batch operations. The burden hours for this company reflect the time required to prepare and file TRI reports for eighteen different chemicals; a challenge that is not uncharacteristic for a SOCMA-type company. This company broke down the estimated burden as follows:

Task:	**Hours:**	**Performed by:**
Air emissions modeling for new products, or modifications to old processes: 55 models at approximately two hours/model.	110	Engineer
Transfer production information for 55 new air emission models and 134 previously used air emission models to process summary spreadsheet.	16	Engineer
Generate TRI reportable process emissions information (point and fugitive) for 18 reportable TRI chemicals/categories.	6	Engineer
Use inventory, purchasing and shipping information to generate rough material balance information for 18 reportable TRI chemicals/categories.	40	Purchasing Agent
Generate material storage and transfer emissions information, and off-site transfers to POTW and drum recyclers for 18 reportable TRI chemicals/categories.	40	Engineer
Input information on 20 hazardous waste shipment quantities and 97 separate analyses to determine off-site transfers and end-of-year inventories by chemical/category.	12	Engineer
Generate spreadsheet which summarizes TRI information for 17 individual chemicals and 1 category, including closing material balances to plus/minus 5%.	18	Engineer
Import and install TRI-ME software, then review software and transfer data from previous year.	1	Engineer
Update data from previous year to current year (one chemical went from Form R in 2002 to Form A in 2003, and one additional Form R chemical was added in 2003) and double-check data.	4	Engineer
Review TRI data and report with Facilities Manager.	2 x 0.5	Engineer and Manager
File TRI report online.	2 x 0.25	Engineer and Manager
Prepare and mail state TRI letter, disk and certification statement.	0.5	Engineer
Mail state copy by certified mail.	0.5	Secretary

If one were to divide the total burden hours spent by the 18 chemicals reported, it would appear as though it takes the company about 14 hours to complete TRI obligations for each chemical. However, this assumption is inaccurate because it does not account for any economies of scale gained by repeating data gathering and calculation steps 18 times.

At the June 14 hearing, EPA Assistant Administrator Kimberly Nelson described the example cited by SOCMA as an anomaly. Unfortunately, it is not an anomaly and should not be written off as such. It is a very real possibility for the hundreds of specialty and batch manufacturing plants where a typical year involves multiple and changing product lines. For example, another SOCMA member company representative calculated that he spends approximately 60 to 80 hours per TRI form R (plus another 20 hours to complete additional requirements for the state forms). Due to the changing nature of chemical and product usage in the specialty-batch chemical sector; the true burden lies with the preparation of TRI reporting data. This involves an overwhelming amount of data collection and data analysis as referenced above.

The true burden for TRI reporting is developed through chemical inventory and usage analysis and threshold calculations for all TRI chemicals used on-site (not just those that are reported). In the example above, the TRI submission may contain 18 Form R reports for one facility. This does not accurately reflect the burden to evaluate all TRI chemicals used at a particular facility. For example, there may be 38 different TRI chemicals used at a facility while only 18 may "trigger" a Form R report. Therefore, 38 different types of collection/analyses need to be conducted to determine that a reporting threshold is not exceeded. Evidence of this type of data analysis is expected to be documented and available during an EPCRA/SARA Section 313 audit.

Lockout/Tagout

A second example of an agency's underestimation of reporting burden is evident in OSHA's lockout/tagout burden calculations. The lockout/tagout rule establishes safety standards for equipment that, if unexpectedly energized during servicing or maintenance, could cause injury. In their most recent Information Collection Request to the Office of Management and Budget, OSHA calculated the burden of compliance with this program at anywhere between 15 seconds and 80 hours.

The low end estimates do not appear realistic. Ensuring compliance with each written lockout procedure requires an annual inspection of that procedure which must be documented in a written certification for each occurrence. In addition, the training provisions require written certification of training and any retraining performed. Considering these and the other requirements, one SOCMA member calculated the low-end of the annual burden for lockout/tagout at about 7 hours per facility, rather than 15 seconds. This member calculated the burden from the lockout/tagout rule as follows:

Task	**Time**
(c)(2)(iii) Ensuring that new equipment is designed to accept a lock: Requires that Engineering or Operations has a spec for this requirement, the spec is matched to the equipment being ordered, the requirement is communicated to the Purchasing contact, this spec is added to the order, and the equipment is checked	Assuming that one piece of new equipment is purchased per year the estimated additional time is 15 minutes (assumes the spec already exists).

against the order to ensure it arrives as specified.	
(c)(4)(ii) Procedural steps to lockout: Requires applying the written procedure during a lockout. Though a checklist is not specifically required by the regulation, to ensure compliance with the details it is necessary to use one.	Estimated time to locate, use and file the checklist is 15 minutes.
(c)(6) Annual inspection: Requires a documented review of a lockout with the employees conducting the lockout to go over responsibilities and the procedure itself. The inspection must also include a written certification that the inspection had been performed.	Estimated time for the inspector and employee, including subsequent documentation of the inspection is 1 hour.
(c)(7) Training and refresher training: Preparation of documentation used to conduct training sessions is expected to take about 2 hours (even though there is no specific requirement to provide written training materials, it is nearly impossible to do otherwise). A written certification must also be prepared which notes that the training has been accomplished.	The estimated time to review training and tests (the employer is obligated to ensure that the program is understood by employees, which most people interpret as "testing") and to prepare the certifications is 30 minutes.
(f)(2) Informing contractors of the program: Requires preparing documentation of the plant's lockout requirements, meeting with the contractor's representative, discussing the program, and finding out what programs they have so that the two can be coordinated.	Estimated time is 30 minutes.

In looking at these cost estimates, if each of these activities is conducted once a year, then the time commitment is 4.5 hours per year. For a small location, there may be one lockout per month (rather than one per year), raising the burden to about 7 hours per year. It would also be reasonable to assume two contractors on site, adding an additional 3 hours per year. Again, this does not sound like much, but it is almost a full day's work, and it is significantly more than 15 seconds. OSHA's estimated aggregated burden hours for lockout/tagout is 3,421,527 hours distributed among 818,532 respondents (varying from 15 seconds to 80 hours per respondent). If instead we only use SOCMA's low-end burden estimate of 7 hours and aggregate that number over the 800,000-plus respondents identified by OSHA, the burden estimate increases to 5,729,724 hours.

RCRA Burden Reduction

In her testimony, Assistant Administrator Nelson also cited the upcoming RCRA Burden Reduction Initiative as an imminent effort that will "significantly reduce or eliminate recordkeeping and reporting burden associated with the nation's hazardous waste program ..." SOCMA fully supports this effort and has so commented to EPA. But we must point out that no burden reduction can occur in the RCRA program until the rule is actually finalized. EPA states that the rule is expected to be promulgated in December 2005. While we hope that is the case, history does not give us cause for optimism. The rule was

first introduced six years ago in a notice of data availability. It was not until two and one half years later that a proposed rule was published. It was then followed by a second notice of data availability in 2003. We have waited almost two years since that last notice for a final rule to be published. This protracted process is not a good model for future burden reduction efforts.

Further, it is rumored that EPA will make available the most significant burden reduction solely to members of the Performance Track voluntary program. The measure in question reduces the frequency of mandatory inspections for tanks and containers at facilities that have good tank/compliance history, but still requires inspections frequently enough to ensure appropriate protection of human health and the environment. Setting this provision aside for Performance Track participants only is overly restrictive and renders the burden reduction virtually meaningless.

The perceived benefits of the voluntary Performance program have attracted large companies with large facilities almost exclusively, thus denying the burden reduction to those small companies and facilities that need it most. The reduced tank inspection frequency should be implemented to also benefit small sites and companies that have fewer staff and fewer resources and that have a demonstrated good compliance history. This would allow for better use of overtaxed environment health and safety managers rather than needlessly spending resources on too-frequent inspections for tanks and containers that are already managed correctly.

EPA's rumored action will deny a significant burden reduction measure to thousands of facilities and instead make it available to a mere 345 companies that participate in Performance Track. This is hardly reflective of a commitment to burden reduction on a national level, particularly to small businesses with demonstrated good performance in environmental compliance who do not have the additional resources to join Performance Track. It is disappointing that EPA is letting this simple burden reduction idea get hijacked by a voluntary program governed by a consortium of large businesses.

Electronic Recordkeeping and Reporting

In addition to the issues described above, SOCMA also would like to address the paperwork burden associated with electronic forms and filing systems. Electronic reporting systems are often cited as evidence of paperwork reduction, including at the June 14 hearing. However, electronic reporting is not always the savior that it is made out to be, given that most of the burden reduction comes from the data collection requirements that make reporting possible. Agencies often credit it for more reduction than it actually achieves. The result is that the burden remains hidden from oversight and the true cost to the regulated community is not known.

EPA's TRI program again serves as an appropriate example. EPA has been touting the benefits of its reporting software, TRI Made Easy ("TRI-ME"), and rightfully so, the majority of SOCMA members use the software and are very pleased with it. The problem is that EPA has counted the use of TRI-ME software as a rather large burden reduction – a

25% reduction for Form R filers to be exact. But most of the burden from TRI comes from the data-gathering process, a step that is prior to, and not aided by, the TRI-ME software. In the earlier example where a SOCMA company spent 250 hours to complete TRI requirements, less than ten hours of that time was spent actually filling out the forms.

SOCMA members also worry that the federal agencies have imposed or are considering imposing relatively technical requirements on the acceptance of electronic reports or records. The purpose of requiring additional technical requirements is to ensure the integrity of the report or the data. This is a worthwhile goal, but in many cases, especially with regard to small businesses, the technical requirements could be unachievable or cost-prohibitive. This particular concern was the single biggest roadblock to EPA's now-defunct Cross-Media Electronic Recordkeeping and Reporting Rule (CROMERRR), which included such stringent technological requirements in order to ensure data integrity that it threatened to drive the regulated industry back to using pencils and paper.

We encourage the agencies to adopt readily-achievable procedures. One SOCMA member has cited a system in use by Wisconsin as a good example. Wisconsin accepts the electronic submission of certain environmental reports and confirms their authenticity through emails to both the submitter and the certifying manager. While the specific requirements are slightly more complicated than illustrated, the whole submission process can be completed electronically, and it requires no special technology or equipment.

This point is not to dissuade agencies from creating electronic forms and software, but to emphasize that they must be cautious about how much burden reduction they credit to electronic reporting. SOCMA members encourage the continued creation of these and on-line forms, even if they must ultimately be printed, signed, and mailed to the agency.

Model Burden Reduction Initiatives

Admittedly, oversight of the Act is difficult, and the robustness of any burden reduction effort is ultimately the decision of the department or agency in question. OSHA has made some positive changes to reduce paperwork burden. For example, many SOCMA members cited the amendments to the Occupational Injury and Illness Recordkeeping and Reporting regulations as being very successful. SOCMA members say it is now easier to determine which incidents are to be recorded and which are not. Importantly, members also have indicated that the new changes for reporting track those types of incidents that would logically be recorded; further simplifying understanding and application of the rule.

Another positive example by OSHA is their Standards Improvement Project, Phase II. This project is a part of OSHA's continuing effort to review and eliminate confusing, outdated and duplicative requirements and update exposure provisions. SOCMA members specifically praised the Standards Improvement Project as a positive step in ensuring that OSHA takes a comprehensive look at existing regulations and ensures that all regulatory requirements meet the goals of the Paperwork Reduction Act.

Transparency Needed

Federal agencies also need to provide more transparent analysis of burden calculations. Oftentimes, a *Federal Register* notice requesting comment on a proposed Information Collection Request will include only the estimated sum total of the burden hours imposed on the regulated community and a second estimate of the burden hours for each regulated entity. Without access to any of the underlying information that led to these estimates, the public has no opportunity to submit meaningful comments on the appropriateness of a particular burden estimate. This problem of incomplete information can be carried a step further by again examining OSHA's lockout/tagout regulations. As noted above, the burden calculation per facility as published in the *Federal Register* states that it "varies from 15 seconds (.004 hour) for an employer or authorized employee to notify affected employees prior to applying, and after removing, a lockout/tagout device from a machine or equipment to 80 hours for certain employers to develop energy-control procedures."

SOCMA understands that the burden per facility likely varies depending on a number of factors, but SOCMA believes that information detailing those factors and their impact on burden, or at least a summary of it, should be available in *Federal Register* notices as well. A wide-ranging estimate such as "between 15 seconds and 80 hours" will likely encompass virtually all affected facilities. But in doing so, it deprives the public of information against which to compare their own experiences. Supporting information on burden estimates can occasionally be found on agencies' web sites, but it is often extremely difficult to sift through the tens of thousands of documents on these sites.

Conclusion

Focusing attention on the Paperwork Reduction Act provides a promising opportunity for OSHA, the EPA and the regulated community to reassess existing requirements, particularly the problems caused by the cumulative effect of numerous regulatory requirements and inaccurate calculations of burden. SOCMA supports this Committee's exploration of the effectiveness of the Act and encourages any changes to the Act that may address the problems outlined above. We hope that agencies actively engage the regulated community on future burden reduction efforts in order to enhance American small business competitiveness in the global economy. In the meantime, we look forward to continuing our work with this Committee to improve and reauthorize the Paperwork Reduction Act.

Exhibit 1 **- Other Suggested Regulatory Changes to Reduce Burden**

Environmental Protection Agency:

1. TSCA Inventory Update Rule – Amended and in effect for the 2006 reporting cycle on 2005 data, the IUR requires companies to report information on chemicals that are produced or imported and sold into U.S. commerce. The expanded reporting requires how the product is used downstream and an estimate of the number of workers who could potentially be exposed. The rule will yield inaccurate and duplicative reporting, significantly diminishing the practical utility of the information being sought by EPA.
    a. Because chemicals are many times sold through confidential distribution networks, the uses (and number of potentially exposed workers) are often not known to the original manufacturer.
    b. Different companies selling the same product to a single downstream user will each report the number of potentially exposed workers at the downstream site, which will result in multiple counting for the same workers.

2. RCRA Burden Reduction proposed rule – Originally proposed in 1999, this proposal received supportive comments. It would eliminate duplicative reporting, unused information and overlapping recordkeeping requirements within EPA and between agencies. The rule still has not been finalized.

3. New Source Performance Standard for Boilers – This rule requires keeping of daily fuel records, which seems excessive, especially, for example, where a company has small, gas-fired boilers with no emissions limits.
    a. This requirement might only take 5 min/day, but is substantial when aggregated over the tens of thousands of units across the country.

4. Effluent Guidelines – A facility is required to file an initial filing detailing a compliance and pollution prevention plan. Then the facility must file a form with its publicly-owned treatment works (POTW) every six months certifying that compliance program is still in place – essentially to confirm the status quo.
    a. The filing would still effectively confirm the status quo if required every one or five years.
    b. An additional problem is once a facility is impacted by the rule, it must continue with the required filings, even though it might no longer have any affected wastewater.

5. RCRA Biennial Report – requires submission of a substantial amount of information. The end-use of this data by EPA is unclear.
    a. The majority of the burden comes from having to break the information on waste up into individual waste streams. EPA should only require information based on waste type, not waste stream.

i. Example: butenol waste created from cleaning a reactor must be recorded separately from a distillate waste containing butenol and water. In both cases, the butenol waste is from polymer production, yet it needs to be separately broken down on the form.

b. EPA/Congress should consider reexamining the various required environmental reports such as TSCA Inventory Updates, RCRA Biennial reports, and TRI reports and examine avenues to better coordinate these reports and, where possible, combine requirements to eliminate any overlap.

Occupational Safety and Health Administration:

1. SOCMA members, for the most part, have been pleased with OSHA's burden reduction efforts.

Department of Transportation:

1. HM-223- lifting the federal requirements for loading and unloading of hazardous materials could lead to significantly increased burdens from state and local authorities that vary from one jurisdiction to another.
   a. For example, this rule could significantly increase training, recordkeeping, reporting, etc. and could increase risk to those doing the loading and unloading.

Exhibit 2 **- Detailed Environmental Regulatory Burden of Example SOCMA Member Company**
Table 1: Air Requirements

Brief Description of Applicable Air Requirement	Pollutants	Regulatory Citation	Reporting Requirement (Yes/No)	Record Keeping Requirement (Yes/No)
General Requirements: Circumvention. This rule prohibits concealment or dilution of air pollutants emitted, which would violate Chapter 20.	All regulated pollutants	9 VAC 5-20-70	No	No
General Requirements: Relationship of state regulations to federal regulations. This rule does not impose specific requirements for sources or emission units.	All regulated pollutants	9 VAC 5-20-80	No	No
General Requirements: Air quality program policies and procedures. This rule does not impose specific requirements for sources or emission units.	All regulated pollutants	9 VAC 5-20-121	No	No
General Requirements: Registration. This rule does not impose specific requirements for sources or emission units.	All regulated pollutants	9 VAC 5-20-160	No	No
Excess emissions, as defined at 9 VAC 5-10-20, which last for more than one hour, must be reported to the board as described by 9 VAC 5-20-180.	All regulated pollutants	9 VAC 5-20-180 Permit dated 10/5/01; Condition 31. Permit dated 4/9/92; Condition 12.	Yes	Yes
General Requirements: Air Quality Control Regions XXXX County is located in the Central Virginia Intrastate Air Quality Control Region (AQCR 3.) This rule does not impose specific requirements for sources or emission units.	None	9 VAC 5-20-200	No	No
General Requirements: Lists prevention of significant deterioration (PSD)areas. Pittsylvania County is a PSD area for all PSD pollutants.	PSD Pollutants	9 VAC 5-20-205	No	No
Existing Stationary Sources-Part I: Special Provisions - Applicability. This rule does not impose specific requirements for sources or emission units.	All regulated pollutants	9 VAC 5-40-10	No	No
Existing Stationary Sources-Part I: Special Provisions- Compliance. This rule gives general requirements for demonstrating compliance with applicable portions of Chapter 40, but does not impose specific requirements for sources or emission units.	All regulated pollutants	9 VAC 5-40-20	No	No
Existing Stationary Sources - Part I: Special Provisions - Notification, records, and recording. This rule requires existing source to keep records to determine emissions and regulatory exemption status.	All regulated pollutants	9 VAC 5-40-50F	Yes	Yes
Existing Stationary Sources - Part II: Emission Standards - visible emissions. Visible emissions shall not exceed 20% opacity, except for one six minute period in any one hour not to exceed more than60% opacity. The presence of water vapor shall not be a violation of this section	Visible emissions	9 VAC 5-40-80	No	No
Existing Stationary Sources - Part II: Emission Standards - Test Methods and Procedures. The provisions of 9VAC 5-40-20 A2 apply to determine compliance with the standard prescribed in 9 VAC 5-40-80.	Visible emissions	9 VAC 5-40-110	No	No
Existing Stationary Sources - Part II: Emission Standards. Applicability and designation of affected facility. Fuel Burning Equipment (Rule 4-8). This rule does not impose specific requirements for sources or emission units.	PM/PM10, SO2, visible emissions	9 VAC 5-40-880	No	No

Existing Stationary Sources - Part II: Emission Standards - Fuel Burning Equipment (Rule 4-8). Standard for particular matter. Limits the maximum allowable particulate matter (PM) emission, rate to 0.565 lbs/MMBtu of heat input. The allowable emission rate is calculated using E = 1.0906 H-0.2594. E = the allowable emission rate and H = the total maximum hourly heat input for F1plus F2, or 12.6 MMbtu/hr.	PM/PM10	9 VAC 5-40-900	No	No
Existing Stationary Sources - Part II: Emission Standards. Fuel Burning Equipment (Rule 4-8). Standard for Sulfur Dioxide. Limits total maximum SO2 emissions from F1 and F2 to 33.26 pounds per hour. The allowable emission rate is calculated using S = 2.64K. S = the allowable emission rate and K = the maximum hourly heat input for F1 plus F2, or 12.6 MMbtu/hr.	SO2	9 VAC 5-40-930	No	No
Existing Stationary Sources-Part II: Emission Standards - Fuel Burning Equipment (Rule 4-8). Visible emissions shall not exceed 20% opacity, except for one six minute period in any one hour not to exceed more than 60% opacity. The presence of water vapor shall not be a violation of this section.	Visible emissions	9 VAC 5-40-940	No	No
Existing Stationary Sources-Part II: Emission Standards-Fuel Burning Equipment (Rule 4-8). Compliance. Only the provision of 9 VAC 5-40-20 A.2 applies specifically to F1 and F2 with regard to determining compliance with 9 VAC 5-40-940.	Visible emissions	9 VAC 5-40-980	No	No
Existing Stationary Sources-Part II: Emission Standards - Fuel Burning Equipment (Rule 4-8). Notification and recordkeeping. See description of applicable requirement for 9 VAC 5-40-50F.	All regulated pollutants	9 VAC 5-40-1010	Yes. Same as Ref. No. AP-10	
Existing Stationary Sources-Part II: Emission Standards - Fuel Burning Equipment (Rule 4-8). Registration. See description of applicable requirements for 9 VAC 5-20-160.	All regulated pollutants	9 VAC 5-40-1020	No	No
Existing Stationary Sources-Part II: Emission Standards - Fuel Burning Equipment (Rule 4-8). Facility and control equipment maintenance or malfunction. See description of applicable requirement for 9 VAC 5-20-180.	SO2; PM/PM10, visible emissions	9 VAC 5-40-1030	Yes. Same as Ref. No. AP-5	
Existing Stationary Sources-Part II: Emission Standards - Open Burning (Rule 4-40). The following parts of this rule are state requirements only and are not federally enforceable: 5-40-5600B;5-40-5610A, B; 5-40-5610 C*; 5-40-5620 B-D,G; 5-40-5630 2, 4,7, 9; 5-40-5641.	Not specified in rule	9 VAC 5-40-5600 through 5640	No	No
New and Modified Stationary Sources-Part I: Special Provisions - Applicability. This rule does not impose specific requirements for sources or emission limits.	All regulated pollutants	9 VAC 5-50-10	No	No
New and Modified Stationary Sources-Part I: Special Provisions - Compliance. This rule gives general requirements for demonstrating compliance with applicable portions of Chapter 50, but does not impose specific requirements for sources or emission units.	All regulated pollutants	9 VAC 5-50-20	No	No
New and Modified Stationary Sources-Part I: Special Provisions - Performance testing. The owner shall provide, or cause to be provided, performance testing facilities as specified at 9 VAC 5-50-30F, upon the request of the board.	N/A	9 VAC 5-50-30F	No	No
Monthly and annual production of each product	VOC	9 VAC 5-50-50 Permit dated 10/05/01; Condition 26 (a).	No	Yes
Monthly and annual calculation of VOC emission. Annual VOC emissions shall be calculated as the sum of each consecutive 12 month period.	VOC	9 VAC 5-50-50 Permit dated 10/05/01; Condition 26 (a).	No	Yes

Monthly and annual calculation of speciated HAP emissions. Annual HAP emissions shall be calculated as the sum of each consecutive 12 month period.	HAP	9 VAC 5-50-50 Permit dated 10/05/01; Condition 26 (h).	No	Yes
Annual consumption of natural gas and fuel oil calculated monthly as the sum of each consecutive 12 month period.	N/A	9 VAC 5-50-50 Permit dated 10/05/01; Condition 26 (g).	No	Yes
Certificates of analysis for all oxalyl chloride batches purchased, indicating the phosgene concentration (in ppm) for each batch.	Phosgene	9 VAC 5-50-50 Permit dated 10/05/01; Condition 26 (c).	No	Yes
Date of receipt and volume delivered for each shipment of fuel oil.	N/A	9 VAC 5-50-50 Permit dated 10/05/01; Condition 26 (f).	No	Yes
New and Modified Stationary Sources-Part I: Special Provisions - Notification, records, and reporting. This rule requires existing source owners to keep records to determine emissions and regulatory exemption status.	All regulated pollutants	9 VAC 5-50-50F	Yes	Yes
New and Modified Stationary Sources - Part II: Emission Standards-Visible emissions. Visible emissions shall not exceed 20% opacity except for one six minute period in any one hour not to exceed more than 30% opacity. The presence of water vapor shall not be a violation of this section.	Visible emissions	9 VAC 5-50-80	No	No
New and Modified Stationary Sources - Part II: Emission Standards-Standard for fugitive dust/emissions sets forth reasonable precautions for preventing fugitive dust/emissions.	Fugitive dust	9 VAC 5-50-90	No	No
New and Modified Stationary Sources - Part II: Emission Standards-Test methods and procedures. The provisions of 9 VAC 5-50-20 A2 apply to determine compliance with the standard prescribed in 9 VAC 5-50-80.	Visible emissions	9 VAC 5-50-110	No	No
The emission rate increase of each toxic air pollutant from a new or modified process shall be evaluated for compliance with Condition 18. Records will be maintained as needed to show compliance. A report for each process change will be submitted within 30 days of implementing the change.	HAP	9 VAC 5-50-180 and 5-50-50. Permit dated 10/5/01; Condition 18, 26(b), and 27.	Yes	Yes
New and Modified Stationary Sources - Part II: Emission Standards-Standards of Performance for Stationary Sources (Rule 5-4). Applicability and designation of affected facility. This section defines affected facility, but does not impose specific requirements for sources or emission units.	All regulated pollutants	9 VAC 5-50-240	No	No
Emissions of VOC from the specialty chemical manufacturing equipment (SCME) emissions group shall not exceed 83.5 tons per year.	VOC	9 VAC 5-50-260; 5-80-850 Permit dated 10/5/01; Condition 17.	No	Yes. Same as Ref. No. AP-26
Emissions of HAP from the specialty chemical manufacturing equipment (SCME) emissions group shall not exceed 9.9 tons per year for any individual HAP and 24.9 tons per year for total HAP.	HAP	9 VAC 5-50-260; 5-80-850 Permit dated 10/5/01; Condition 17.	No	Yes. Same as AP-27.
Particulate emissions from handling, drying, drumming, and packaging operations shall be controlled by a fabric filter. The fabric filter will be maintained in working order at all times, and will be equipped with a device to continuously measure the differential pressure drop across the fabric filter.	PM/PM10	5-50-260; Permit dated 10/05/01; Conditions 3 and 4.	No	Yes
Particulate emissions from the spray dryer will be controlled by a venturi scrubber. (See page 17 of Title V application forms for suggested streamlining).	PM/PM10	5-50-260; Permit dated 10/05/01; Condition 5.	No	Yes
The production of high purity calcium hydroxide shall not exceed 6,800 tons per year, calculated as the sum of each consecutive 12 month period.	PM/PM10	9 VAC 5-50-260 Permit dated 4/9/92; Condition 6.	No	Yes

Particulate emissions from the dryer shall be controlled by a baghouse. The baghouse will be maintained in working order at all times and will be equipped with a device to continuously measure the differential pressure drop across the fabric filter. (See page 17 of Title V application forms for suggested streamlining).	PM/PM10	9 VAC 5-50-260 Permit dated 4/9/92; Condition 3.	No	Yes
Particulate emissions from the calcium hydroxide railcar loading/shipping shall be controlled by a filter sack, or equivalent.	PM/PM10	9 VAC 5-50-260 Permit dated 4/9/92; Condition 4.	No	No
Particulate emissions from the calcium hydroxide supersack packaging and the calcium hydroxide conveying system shall be controlled by an inline filter, located prior to the nitrogen surge tank. (See page 17 of Title V application forms for suggested streamlining.	PM/PM10	9 VAC 5-50-260 Permit dated 4/9/92; Condition 5.	No	No
Volatile organic compound (VOC) emissions from condensers E05 A and B and the compressor loop shall be controlled by a flare. The flare shall be operated at all times when VOC emissions are vented to it. The presence of the flare pilot flame shall be monitored using a thermocouple or other equivalent device.	VOC	9 VAC 5-50-260 Permit dated 10/05/01; Conditions 9 and 10.	No	Yes
The maleic anhydride emission from the storage facility will be controlled by a wet scrubber.	Maleic anhydride	9 VAC 5-50-260 Permit dated 10/05/01; Condition 6.	No	Yes
The approved fuels for the boilers are natural gas and distillate oil. Distillate oil is defined as fuel oil that meets the specifications for fuel oil numbers 1 or 2 under the ASTM "Standards Specification for Fuel Oils". A change in the fuel may require a permit to modify and operate.	SO2	9 VAC 5-50-260 Permit dated 10/05/01; Conditions 12 and 14.	No	Yes. Same as Ref. No. AP-67
During production of crude CPPO, when using oxalyl chloride with a phosgene content greater than 200 ppm, phosgene emissions will be controlled by a caustic wet scrubber (scrubbing solution 3 to 15 percent free caustic). The scrubber will be provided with a flow meter and a device to continuously measure differential pressure through the scrubber.	Phosgene	9 VAC 5-50-260 Permit dated 10/05/01; Conditions 7 and 8.	No	Yes. Same as Ref. No. AP-29
Visible emissions shall not exceed 10 percent opacity except not to exceed 20 percent opacity in any one hour	Visible emissions	9 VAC 5-50-260 and 5-50-20. Permit dated 10/05/01; Condition 19.	No	No
Visible emissions shall not exceed 5 percent opacity.	Visible emissions	9 VAC 5-50-260 and 5-50-20. Permit dated 10/05/01; Condition 20.	No	No
Visible emissions shall not exceed 10 percent opacity.	Visible emissions	9 VAC 5-50-260 and 5-50-20. Permit dated 10/05/01; Condition 21.	No	No
Visible emissions shall not exceed 5 percent opacity.	Visible emissions	9 VAC 5-50-260 and 5-50-20. Permit dated 10/05/01; Condition 22.	No	No
Visible emissions shall not exceed 5 percent opacity.	Visible emissions	9 VAC 5-50-260 and 5-50-20. Permit dated 10/05/01; Condition 23.	No	No
Visible emissions shall not exceed 5 percent opacity.	Visible emissions	9 VAC 5-50-260 and 5-50-20. Permit dated 10/05/01; Condition 23.	No	No
Emissions from Boiler No. 4 shall not exceed 12.9 lbs/hr and 39 tons/yr.	SO2	9 VAC 5-50-260. Permit dated 10/05/01; Condition 16.	Yes. Same as Ref. No. AP-5	
New and Modified Sources - Part II: Emission Standards -Standard for visible emissions. See description for 9 VAC 5-50-80.	Visible Emissions	9 VAC 5-50-290	No	No
New and Modified Sources - Part II: Emission Standards -Standard for fugitive dust/emissions. See description for 9 VAC 5-50-90 .	Fugitive dust	9 VAC 5-50-300	No	No

New and Modified Sources - Part II: Emission Standards -Compliance. See description for 9 VAC 5-50-20.	All regulated pollutants	9 VAC 5-50-330	No	No
New and Modified Sources - Part II: Emission Standards -Test methods and procedures. See description for 9 VAC 5-50-30F.	N/A	9 VAC 5-50-340	No	No
New and Modified Sources - Part II: Emission Standards -Notification, records, and reporting. See description for 9 VAC 5-50-50F.	All regulated pollutants	9 VAC 5-50-360	See other table entries for permit conditions.	
New and Modified Sources - Part II: Emission Standards -Registration. See description for 9 VAC 5-20-160.	All regulated pollutants	9 VAC 5-50-370	No	No
New and Modified Sources - Part II: Emission Standards -Facility and control equipment maintenance or malfunction. See description for 9 VAC 5-20-180.	All regulated pollutants	9 VAC 5-50-380	Yes. Same as Ref. No. AP-5	
Permits for New and Modified Sources. Specifies general requirements and provisions regarding application for and issuance of a permit to construct, reconstruct, relocate, or modify any stationary source.	All regulated pollutants	9 VAC 5-80-10	No	Yes
State Operating Permits for Stationary Sources. This rule incorporates all elements of the state operating permit regulation. COMPANY'S permit issued under this regulation establishes COMPANY as a synthetic minor.	All regulated pollutants	9 VAC 5-80-800 through 5-80-1040.	No	Yes
Payment of biennial fee for facilities holding state operating permits.	All regulated pollutants	VA Environmental Law, Ch. 13, Article 1, Section 10.1 - 1322.B	Yes	Yes
Develop a maintenance schedule for air pollution control devices and maintain an inventory of spare parts.	VOC PM	9 VAC 5-50-20E Permit dated 10/05/01; Condition 33 Permit dated 4/9/92; Condition 13.	No	Yes
The permittee shall have available written operating procedures for the related air pollution control equipment. Operators shall be trained in the proper operation of all such equipment and shall be familiar with the written operating procedures. These procedures shall be based on the manufacturer's recommendations, at a minimum. The permittee shall maintain records of training provided.	VOC PM	9 VAC 5-50-20E Permit dated 10/05/01; Condition 33 Permit dated 4/9/92; Condition 14.	No	Yes
Boiler No. 4 shall consume no more than 1,098,600 gallons of distillate oil per year, calculated as the sum of each consecutive 12 month period.	SO2	9 VAC 5-170-160. Permit dated 10/05/01; Condition 13.	No	Yes
The maximum sulfur content of oil fired in Boiler No. 4 shall not exceed 0.5% by weight. Certification will be obtained from the fuel supplier with each shipment of fuel oil. The certification shall include name of the fuel supplier and statement that fuel oil meets ASTM D396 for numbers 1 or 2 fuel oil.	SO2	40 CFR 60.42c(d) 9 VAC 5-170-160 and 5-50-410. Permit dated 10/05/01; Condition 15.	No	Yes
Fuel quality reports will be submitted to the South Central Regional Office and EPA Region III within 30 days after each semi-annual period. The report shall be prepared as stated in Condition 28 of the permit dated 10/05/01.	SO2	40 CFR 60.48c(d) and 60.48c(e) 9 VAC 5-170-160 and 5-50-50. Permit dated 10/05/01; Condition 26(e), 28.	Yes	Yes
Boiler operators will be trained. Training will consist of a review and familiarization of manufacturer's operating instructions, at a minimum.	All regulated pollutants	9 VAC 5-170-160 Permit dated 10/05/01; Condition 11.	No	Yes
Daily and monthly natural gas and fuel oil consumption.	SO2	40 CFR 60.48c (g); 9 VAC 5-50-50 Permit dated 10/05/01; Condition 26(d).	No	Yes
A copy of all current air permits will be maintained on the facility premises.	N/A	9 VAC 5-80-860 D; Permit dated 10/05/01; Condition 37. Permit dated 4/9/92; Condition 17.	No	Yes

These tanks are subject to the requirements of paragraphs (a) and (b) of 40 CFR 60.116b only, which require that a record of the dimension and storage capacity of the vessel be kept readily available for the life of the tanks.	VOC	40 CFR Part 60 Subpart Kb - Standards of Performance for VOC Liquid Storage Vessels for Which Construction, Reconstruction, or Modification Commenced After July 23, 1984.	No	Yes
Risk Management Plan. Requires assessment of off-site impacts for worst-case and alternate scenarios, and submittal of a written Risk Management Plan for listed chemicals present in quantities greater than regulatory threshold.	Chemicals listed at 40 CFR 68.130	40 CFR Part 68	Yes	Yes
This is a one-time requirement to offer opportunity for a public meeting to present components of the Risk Management Plan. Meeting must be held no later than February 1, 2000. A certifying letter that the meeting was held must be submitted to the FBI.	N/A	Chemical Safety Information, Site Security and Fuels Regulatory Relief Act	Yes	Yes
Leak Detection and Repair. XXXXXX shall institute a fugitive LDAR per the program described in the attachment to the permit dated 10/5/01. Records shall be maintained at the facility.	VOC/ HAP	9 VAC 5-50-50 and 5-170-160; Permit dated 10/05/01; Conditions 25 and 26i.	No	Yes
The new owner must notify the South Central Regional Office of the change of ownership within 30 days of the transfer.	N/A	9 VAC 5-80-940; Permit dated 10/05/01 Condition 35.	Yes	Yes

(a) The annual update of emissions to the SAPCB will be the record of reporting and report format for this condition (see VAC 5-50-50F).

Table 2: Wastewater Requirements

Brief Description of Applicable Wastewater Requirement	Regulatory Citation	Reporting Requirement (Yes/No)	Record Keeping Requirement (Yes/No)
Do not exceed pollutant limits specified in wastewater discharge permit for BOD, TSS, TKN, and pH.	WDP Part I, Section 1	Yes	Yes
Do not exceed pollutant limits specified in wastewater discharge permit for trace metals and cyanide.	WDP Part I, Section 1	Yes	Yes
Do not exceed pollutant limits specified in wastewater discharge permit for OCPSF pollutants.	40 CFR 414 Subpart K, and WDP Part I, Section 1	Yes	Yes
Report results of priority pollutant scan (Note: priority pollutants are listed at 40 CFR 401.15.	WDP Part I, Section 1	Yes	Yes
The facility will maintain a slug control plan	40 CFR 403.8 (f)(2)(v)	No	Yes
The facility will inform the POTW within 24 hours of a wastewater pollutant limit violation, and repeat sampling and analysis, and submit the results of the second analysis within 30 days of results indicating the first violation.	WDP Part II, Section 2 C.	Yes	Yes
The facility will notify the POTW by immediately by telephone, and in within five days in writing, of any prohibited discharge, as defined in the WDP and CITY Code Chapter 34. See WDP Part 1, Section 2.D. for required notification content.	WDP and CITY Code Chapter 34.	Yes	Yes
Wastewater flows from the following areas must be recorded daily and reported on a monthly basis: Combined flow of Plants 1 and 3 Flow from Plant 2 Total wastewater flow from Parshall flume	WDP Part III, Section 1.	Yes	Yes
Notification of anticipated bypass. If the bypass is anticipated, written prior notice must be submitted at least ten days before the date of the bypass.	WDP Standard Conditions Section B.3.	Yes	Yes
Notification of unanticipated bypass. If the bypass is unanticipated, the facility will notify the POTW immediately by telephone, and in within 24 hours in writing, of any prohibited discharge.	WDP Standard Conditions Section B.3.	Yes	Yes
If wastewater to be discharged is in compliance with all permit requirements, then bypass of the treatment system is allowed, but only for essential maintenance purposes.	WDP Standard Conditions Section B.3.	See WW-9 and WW-10	See WW-9 and WW-10
If wastewater is not in compliance with discharge permits, bypass of the treatment system is prohibited unless it is unavoidable to prevent loss of life, personnel injury or severe property damage, or no feasible alternative exists. (Any discharge of non-compliant wastewater to the POTW, even under the above conditions, will result in the issuance of an NOV).	WDP Standard Conditions Section B.3.	See WW-9 and WW-10	See WW-9 and WW-10
The results of additional sampling conducted more frequently than required by the permit shall be included in the self-monitoring reports.	WDP Standard Conditions Section C.4.	Yes	Yes
The permittee shall notify the POTW at least 90 days prior to any expansion, production increase, or process modifications which results in new or substantially increased discharges, or a change in the nature of the discharge.	WDP Standard Conditions Section D.1.	Yes	Yes

Operating upsets. The facility must inform the POTW immediately upon first becoming aware of an upset that places the permittee in a temporary state of non-compliance with either the WDP or the CITY Code Chapter 34., or that may cause problems at the POTW.	WDP Standard Conditions Section D.5; 40 CFR 403.12(f).	Yes	Yes
Maintain continuous pH monitoring reports.	Letter from CITY, dated June 1, 1999.	No	Yes
Perform calibrations and inspections of effluent discharge at XXXX Flume and Concrete Pit per written agreement with CITY.	Agreement between CITY Department of Utilities and COMPANY dated 10/18/99	No	Yes
Effluent Guidelines and Standards for Pesticide Chemicals Formulating and Packaging Subcategory. Must meet requirements of the Pollution Prevention Alternatives in Table 9 of Part 455; must submit initial certification statement as described by 455.41(a), and maintain compliance records. Must also submit certification statement as described in 40 CFR 455.41(b) during the months of June and December of each year of operation.	40 CFR 455.46	Yes	Yes
The new owner must notify the POTW of a change of ownership at least 30 days prior to transfer.	WDP Standard Conditions Section A.7.	Yes	Yes

BOD = Biochemical Oxygen Demand

NOV = Notice of Violation

POTW = Publicly Owned Treatment Works

TKN = Total Kjeldahl Nitrogen

TSS = Total Suspended Solids

WDP = Wastewater Discharge Permit

Table 3: RCRA Requirements

Brief Description of Applicable RCRA Requirement	Regulatory Citation	Reporting Requirement (Yes/No)	Record Keeping Requirement (Yes/No)
A person who generates a solid waste was defined at 40 CFR 261.2 must determine if that waste is a hazardous waste as described in 40 CFR 262.11.	40 CFR 262.11; 40 CFR 262.40(c)	No	Yes
A generator must not treat, store, dispose of, transport, or offer for transportation, hazardous waste without having received an EPA identification number	40 CFR 262.12	No	No
A generator who transports or offers for transport hazardous waste for off-site treatment, storage, or disposal must prepare a waste manifest. The generator's copy and the signed confirmation copy must be kept.	40 CFR 262 Subpart B and 262.40(a)	No	Yes
Hazardous waste must be properly packaged, labeled, marked, and placarded.	40 CFR 262.30 - 262.33	No	No
Hazardous waste cannot be stored longer than 90 days without a RCRA permit. NOTE: COMPANY DOES NOT HAVE A RCRA PERMIT AND CANNOT STORE HAZARDOUS WASTE BEYOND 90 DAYS. Wastes stored in containers must meet the requirements of 40 CFR 265 Subpart I. The generator must also comply with 40 CFR Part 265 Subparts C and D, and 265.15.	40 CFR 262.34(a)	No	No
A generator may accumulate as much as 55 gallons of hazardous waste or one quart of acutely hazardous waste listed in §261.33 (e) in containers at or near any point of generation where wastes initially accumulate beyond 90 days...without a permit, provided that 40 CFR 265.171, 265.172, and 265.173 are met.	40 CFR 262.34(c)	No	No
A Biennial Report must be prepared and submitted by March 1 on each even year for the annual period of each preceding (odd) year.	40 CFR 262.41and 262.40(b)	Yes	Yes

A generator who does not receive a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 35 days of the date the waste was accepted by the initial transporter must contact the transporter and/or the owner or operator of the designated facility to determine the status of the hazardous waste.	40 CFR 262.42(a)(1)	No	No
The generator must submit an Exception Report to the EPA Regional Administrator for the Region in which the generator is located if he has not received a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 45 days of the date the waste was accepted by the initial transporter. The Exception Report must contain the information listed in 40 CFR 262.42(a)(2).	40 CFR 262.42(a)(2)	Yes	Yes
Facility personnel must be trained in hazardous waste management procedures relevant to the positions in which they are employed. Training may consists of classroom instruction or on-the-job training. At a minimum, the training must ensure that personnel are able to respond effectively to emergencies.	40 CFR 265.16(a)	No	No
Training must be conducted with the first six months of employment, and followed by an annual review. Training records must be kept demonstrating that training has occurred.	40 CFR 265.16(b) and (c); 40 CFR 265.16(d)(4)	No	Yes
The job title of each position at the facility related to hazardous waste management, and the name of the employee filling each job. A written description of each job title, including the requisite skill, education, or other job title requirements.	40 CFR 265.16(d)(1) and (2)	No	Yes
A written description of the type and amount of initial and continuing training given must by maintained.	40 CFR 265.16(d)(3)	No	Yes
Facilities must comply with the operation and maintenance requirements prescribed in 40 CFR 265 Subpart C.	40 CFR 265 Subpart C	No	No
Facilities are required to have a contingency plan and emergency procedures in place which meet the requirements of 40 CFR 265 Subpart D.	40 CFR 265 Subpart D	No	Yes
If a container holding hazardous waste is not in good condition, or if it begins to leak, the owner or operator must transfer the hazardous waste from this container to a container that is in good condition, or manage the waste in some other way that complies with the regulations.	40 CFR 265.171	No	No
The owner or operator must use a container made of or lined with materials which will not react with, and are otherwise compatible with, the hazardous waste to be stored, so that the ability of the container to contain the waste is not impaired.	40 CFR 265.172	No	No
A container holding hazardous waste must always be closed during storage, except when it is necessary to add or remove waste. A container holding hazardous waste must not be opened, handled, or stored in a manner which may rupture the container or cause it to leak.	40 CFR 265.173	No	No
The owner or operator must inspect areas where containers are stored, at least weekly, looking for leaks and for deterioration caused by corrosion or other factors.	40 CFR 265.174	No	Yes
Containers holding ignitable or reactive waste must be located at least 15 meters (50 feet) from the facility's property line.	40 CFR 265.176	No	No
Non-compatible wastes cannot be placed in the same container, and must be separated from each other during storage.	40 CFR 265.177	No	No
Containers with a capacity between 26 gallons and 122 gallons can meet the requirements of 40 CFR 265 Subpart CC by meeting the applicable U.S. Department of Transportation (DOT) regulations on packaging hazardous materials for transportation.	40 CFR 265.1087	No	No
Information used to determine the applicability of hazardous waste with respect to land disposal restriction regulations must be retained by the generator on site for a period of at least 3 three years from the date last sent to the TSDF.	40 CFR 268.7(a)(6) and (8)	No	Yes
Submit a Form 8700-12 for change of ownership for both COMPANY manufacturing facility and for the Research Lab.	None.	Yes	Yes

Pay annual fees per regulation (this became effective in 2004).	9 VAC 20-60-1285; -1285	Yes	Yes

Table 4: Other Requirements

Brief Description of Other Applicable Requirement	Regulatory Citation	Reporting Requirement (Yes/No)	Record Keeping Requirement (Yes/No)
Alternative Certification (Figure 5.5.3 of the Pollution Prevention Plans). Submit annual record of alternative certification that raw materials, waste materials, etc. that are located in stormwater discharge areas are not exposed to storm water (first submittal due no later than January 1, 2001).	SWP; Part I.D.5	Yes	Yes
Maintain a Stormwater Pollution Prevention Plan as described by the SWP.	SWP; Part III.	No	Yes
Maintain a record of quarterly visual examination of storm water samples in compliance with Part I.D.7 of storm water permit (first quarterly inspection to be conducted 4th quarter of 1999).	SWP; Part I.D.7.	No	Yes
Quarterly inspection reports (Figures 7.3a - 7.3e of the Pollution Prevention Plans). Perform quarterly inspections of spill containment dikes.	SWP; Part III.D.3.d.	No	Yes
Spill Station Equipment and Material Checklist (Figure 7.4 of the Pollution Prevention Plans)		No	Yes
Training. Conduct training, as least annually, to cover regulations, spill prevention, control features and spill response, and the storm water pollution prevention plan.	SWP; Part III.D.3.e. and Part III.E.2.b.(9).	No	Yes
Certification of No Non-Storm Water Discharge (Figure 5.3.4 of the Pollution Prevention Plans)	SWP; Part III.D.3.g.	No	Yes
Comprehensive Site Compliance evaluation (Figure 7.7 of the Pollution Prevention Plans) to be conducted at least annually.	SWP; Part III.D.4.	No	Yes
The new owner must notify the DEQ of a change of ownership at least 30 days prior to transfer.	SWP; Part II.Y.2.b.	Yes	Yes
SARA Section 302 Hazardous Substance Notification. Requires initial notification of hazardous substances by October 17, 1990.	40 CFR 370.20 (b)(1)	Yes	Yes
SARA Section 311 Supplemental MSDS Reporting. Requires applicable facilities to update information reported under the requirements of 40 CFR 370.20 (b)(1).	40 CFR 370.21	Yes	Yes
SARA 312 Tier II Hazardous Chemical Reporting. Requires reporting of information for all hazardous chemicals stored in quantities greater than 10,000 pounds or any extremely hazardous substance stored in quantities greater than 500 pounds or the threshold planning quantity, whichever is less.	40 CFR 370.25	Yes	Yes
SARA 313 Reporting Requirements. Requires that subject facilities report releases of toxic chemicals in accordance with 40 CFR 372 Subpart B.	40 CFR 372 Subpart B	Yes	Yes
Notification about toxic chemicals. Requires that suppliers of toxic chemicals or suppliers of mixtures containing toxic chemicals make annual notification to facilities to which chemicals are distributed.	40 CFR 372.45	Yes	Yes
Specific Toxic Chemicals Listing. Lists the specific chemicals covered by the requirements of 40 CFR Part 372.	40 CFR 372.65	No	No
Requires reporting as stipulated in the regulation for a release into navigable waters of a substance greater than a reportable quantity, as listed at 40 CFR 117.3.	40 CFR Part 117	Yes	Yes

Requires reporting as stipulated in the regulation for a release into the environment of a substance greater than a reportable quantity, as listed at 40 CFR 302.4.	40 CFR Part 302	Yes	Yes
Premanufacture Notice Requirements. A premanufacture notice (PMN) must be submitted to EPA prior to manufacturing a new chemical substance (one that is not already on the TSCA Chemical Inventory), unless exempt under 40 CFR Parts 720 or 723. NOTE: COMPANY IS NOT CURRENTLY SUBJECT TO PMN REQUIREMENTS FOR ANY MANUFACTURED CHEMICAL FOR ONE OF THE FOLLOWING REASONS: (1) THE CHEMICAL IS EXEMPT FROM PMN REQUIREMENTS; (2) THE CHEMICAL IS ALREADY ON THE TSCA INVENTORY; (3) THE REGULATION DICTATES THAT THE ENTITY CONTRACTING OUT THE MANUFACTURE OF THE CHEMICAL MUST SUBMIT THE PMN (SEE 40 CFR 720.22).	40 CFR Part 720 and Part 723.	See NOTE	See NOTE
TSCA Inventory Update Rule. Chemical substances manufactured in quantities greater than 10,000 pounds per year must be reported per the requirements of 40 CFR Part 710, unless the chemical is excluded per 40 CFR 710.4 or 710.26.	40 CFR Part 710	Yes	Yes
PESTICIDE REGISTRATION AND CLASSIFICATION PROCEDURES. Pesticides products must be registered in compliance with 40 CFR Part 152. NOTE: COMPANY IS NOT CURRENTLY DIRECTLY SUBJECT TO THIS RULE. HOWEVER, COMPANY WILL OBTAIN THE EPA PRODUCT REGISTRATION NUMBER FROM THE CUSTOMER PRIOR TO BEGINNING MANUFACTURE OF ANY PESTICIDE.	40 CFR Part 152	See NOTE	See NOTE
Any establishment where a pesticide product is produced must be registered.	40 CFR Part 167.20	No	Yes
Pesticide Report for Pesticide -Producing Establishments. A producer operating an establishment must submit an initial report no later than 30 days after the first registration of each establishment the producer operates. Thereafter, the producer must submit an annual report on or before March 1 of each year, even if the producer has produced no pesticide product for that reporting year.	40 CFR Part 167.85 (d)	Yes	Yes
Labeling. Pesticide products must be labeled in according with Part 156.	40 CFR Part 156	No	No
The new owner must notify the EPA Region III of a change of ownership at least 30 days prior to transfer.	40 CFR 167.20(e)	Yes	Yes
Facility and Aboveground Storage Tank Regulation. Requires that facilities with an AST storing greater than 660 gallons of oil be registered with DEQ every 5 years.	9 VAC 25-91-10	Yes	Yes
Oil Pollution Prevention. Facilities with any single AST with a capacity greater than 600 gallons storing oil are required to maintain a Spill Prevention, Control, and Contingency Plan (SPCCP). The plan must be sealed by an independent PE. (see also SW-2).	40 CFR 112.3	No	Yes
Amendment of SPCCP by Regional Administrator. Oil spills as described at 40 CFR 112.4 must be reported in writing. Based on the details of the incident the Regional Administrator may require amendments to the SPCCP.	40 CFR 112.4	Yes	Yes
Amendments to the SPCCP must be made within six months of facility modifications which materially affect the facility's potential for the discharge of oil into or upon the navigable waters of the United States or adjoining shore lines. Such amendments must be sealed by an independent PE.	40 CFR 112.5 (a) and (c)	No	Yes
Facilities subject to §112.3 (a), (b) or (c) shall complete a review and evaluation of the SPCC Plan at least once every three years. As a result of this review and evaluation, the owner or operator shall amend the SPCC Plan within six months of the review to include more effective prevention and control technology if: (1) Such technology will significantly reduce the likelihood of a spill event from the facility, and (2) if such technology has been field-proven at the time of the review. Such amendments must be sealed by an independent PE.	40 CFR 112.5 (b) and (c)	No	Yes
Chemical Weapons Convention Declaration. Facilities that manufacture Unscheduled Discrete Organic Chemicals (UDOCs) in excess of 200 metric tons aggregate or 30 metric tons per year of an individual UDOC containing phosphorus, sulfur, or fluorine must make an initial and annual declaration using the Certification Form and Form UDOC.	15 CFR Part 715	Yes	Yes

EPCRA = Emergency Preparedness and Community Right-to-Know Act

SARA = Superfund Amendment and Reauthorization Act
SWP = Stormwater Discharge Permit
TSCA = Toxic Substances and Control Act
FIFRA =Federal Insecticide, Fungicide, and Rodenticide Act