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WHAT IS THE BUSH ADMINISTRATION'S ECONOMIC GROWTH PLAN COMPONENT FOR PAPERWORK REDUCTION?

HEARING

BEFORE THE

SUBCOMMITTEE ON ENERGY POLICY, NATURAL RESOURCES AND REGULATORY AFFAIRS

OF THE

COMMITTEE ON GOVERNMENT REFORM

HOUSE OF REPRESENTATIVES

ONE HUNDRED EIGHTH CONGRESS

SECOND SESSION

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WHAT IS THE BUSH ADMINISTRATION'S ECONOMIC GROWTH PLAN COMPONENT FOR PAPERWORK REDUCTION?

TUESDAY, APRIL 20, 2004

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

The subcommittee met, pursuant to notice, at 2 p.m., in room 2154, Rayburn House Office Building, Hon. Doug Ose (chairman of the subcommittee) presiding.

Present: Representatives Ose, Schrock, Cannon, Tierney, and Waxman (ex officio).

Staff present: Barbara F. Kahlow, staff director; Carrie-Lee Early, professional staff member; Lauren Jacobs, clerk; Phil Barnett, minority staff director; Karen Lightfoot, minority communications director/senior policy advisor; Anna Laitin, minority communications & policy assistant; Krista Boyd and Alexandra Teitz, minority counsels; Earley Green, minority chief clerk; and Jean Gosa, minority assistant clerk.

Mr. OSE. Good afternoon. Welcome to this afternoon's hearing in the Subcommittee on Energy Policy, Natural Resources and Regulatory Affairs.

This is the subcommittee's sixth annual April hearing to assess progress in paperwork reduction. Last week, Americans who prepared and filed their tax returns experienced firsthand the kind of burdensome paperwork that the government imposes. In February of this year, the fiscal year 2005 budget of the U.S. Government outlined the President's six-point economic growth plan. Point No. 4 is, "streamlining regulations and reporting requirements." The IRS imposes over 80 percent of all paperwork burden levied on the public. As a consequence, IRS compliance simplification should be the administration's paramount paperwork reduction priority.

Today, our subcommittee will examine the Bush administration's economic growth plan component for paperwork reduction, especially for IRS paperwork reduction.

The Office of Management and Budget estimates the Federal paperwork burden on the public at over 8 billion hours. In its June 1993 final first-year task force report for the Small Business Paperwork Relief Act, OMB estimated that the price tag for all paperwork imposed on the public is $320 billion a year. Let me just repeat that, $320 billion a year.

In 1980, Congress passed the Paperwork Reduction Act and established an Office of Information and Regulatory Affairs within OMB. By law, OIRA's principal responsibility is paperwork reduction. In 1995, Congress passed amendments to the Paperwork Reduction Act and set governmentwide paperwork reduction goals of 10 percent or 5 percent per year during fiscal years 1996 to 2001.

After annual increases in paperwork, instead of decreases, Congress attached paperwork riders to the fiscal year 1999 and fiscal year 2001 Treasury-Postal Appropriations Acts. In addition, the House report for the fiscal year 2003 Treasury-Postal Appropriations Act included an instruction for OMB to focus on IRS paperwork.

In 1983, after issuance of President Reagan's 1981 Executive Order 12291, which initiated OMB review of agency regulatory proposals, OMB signed a memorandum of agreement with the Treasury Department relating to its regulatory reviews. Nothing therein or subsequently has limited OMB's statutory responsibility for review and approval of each IRS paperwork requirement.

As evidenced by its actions, paperwork reduction is of great concern to Congress, especially for tax and regulatory paperwork. Nonetheless, the GAO will report today that paperwork burden has increased, not decreased, in each of the last 8 years.

GAO differentiates between substantive program changes in paperwork, such as a reduction from quarterly to annual reporting, and adjustments, such as a reestimate of the time it takes to complete a form. For adjustments, the public experiences no relief whatsoever.

Last month, at OMB's annual House appropriations subcommittee hearing, Members of Congress emphasized to OMB Director Josh Bolten that mere reduction in the rate of growth of regulatory burden is insufficient. They emphasized that OMB must instead do more to examine and reduce the base of existing regulatory and paperwork burden. Under the Paperwork Reduction Act, OMB is the watchdog for paperwork. However, the evidence points to OMB's continued failure to focus on paperwork reduction. OMB has not pushed the IRS or other Federal agencies to cut existing paperwork.

IRS itself has had a dismal record in accomplishing paperwork reduction. Last May, IRS promised to identify all paperwork thresholds within the Commissioner's discretion to adjust. I look forward to discussing the results of IRS's analysis.

Today, we will learn if the President's six-point economic growth plan can be realized by specific paperwork reduction efforts identified by OMB and the IRS.

I want to welcome our witnesses today. Our first panel includes the Office of Management and Budget's OIRA Administrator Dr. John D. Graham; also the IRS Commissioner and former OMB Deputy Director for Management Mr. Mark W. Everson; and the Director for Strategic Issues at the General Accounting Office Ms. Patricia Dalton. We welcome you all on the first panel.

Our second panel is comprised of Mr. Daniel Clifton, Federal Affairs Manager for Americans for Tax Reform; Mr. Paul Hense, the President, Paul A. Hense CPA, on behalf of the National Small

Business Association; and, Mr. Raymond J. Keating, the Chief Economist for the Small Business Survival Committee.

Now, I see this hearing has generated substantial interest. I want to welcome my friend from Massachusetts for the purpose of an opening statement.

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

Chairman Doug Ose
Opening Statement
What is the Bush Administration's Economic Growth Plan Component for Paperwork Reduction?
April 20, 2004

This is the Subcommittee's sixth annual April hearing to assess progress in paperwork reduction. Last week, Americans, who prepared and filed their tax returns, experienced first hand the kind of burdensome paperwork that the government imposes.

In February, the Fiscal Year 2005 Budget of the U.S. Government outlined the President's Six-Point Economic Growth Plan. Point #4 is "[s]treamlining regulations and reporting requirements." The Internal Revenue Service (IRS) imposes over 80 percent of all paperwork burden levied on the public. Thus, IRS compliance simplification should be the Administration's paramount paperwork reduction priority. Today, the Subcommittee will examine the Bush Administration's Economic Growth Plan component for paperwork reduction, especially for IRS paperwork reduction.

The Office of Management and Budget (OMB) estimates the Federal paperwork burden on the public at over 8 billion hours. In its June 1993 final first-year task force report for the Small Business Paperwork Relief Act, OMB estimated that the price tag for all paperwork imposed on the public is $320 billion a year - a huge amount.

In 1980, Congress passed the Paperwork Reduction Act (PRA) and established an Office of Information and Regulatory Affairs (OIRA) in OMB. By law, OIRA's principal responsibility is paperwork reduction. In 1995, Congress passed amendments to the PRA and set government-wide paperwork reduction goals of 10 or 5 percent per year during the Fiscal Year (FY) 1996 to 2001 period. After annual increases in paperwork, instead of decreases, Congress attached paperwork riders to the FY 1999 and FY 2001 Treasury-Postal Appropriations Acts. In addition, the House Report for the FY 2003 Treasury-Postal Appropriations Act included an instruction for OMB to focus on IRS paperwork.

In 1983, after issuance of President Reagan's 1981 Executive Order 12291, which initiated OMB review of agency regulatory proposals, OMB signed a Memorandum of Agreement with the Treasury Department relating to its regulatory reviews. Nothing therein or subsequently limited OMB's statutory responsibility for review and approval of each IRS paperwork requirement.

As evident by its actions, paperwork reduction is of great concern to Congress, especially for tax and regulatory paperwork. Nonetheless, the General Accounting Office (GAO) will report today that paperwork burden has increased, not decreased, in each of the last eight years. GAO differentiates between substantive program changes in paperwork (such as a reduction from quarterly to annual reporting) and adjustments (such as a re-estimate of the time it takes to complete a form). For adjustments, the public experiences no relief whatsoever.

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regulatory burden is insufficient. They emphasized that OMB must instead do more to examine and reduce the base of existing regulatory and paperwork burden.

Under the PRA, OMB is the watchdog for paperwork. However, the evidence points to OMB's continued failure to focus on paperwork reduction. OMB has not pushed the IRS and other Federal agencies to cut existing paperwork. IRS itself has had a dismal record in accomplishing paperwork reduction. Last May, IRS promised to identify all paperwork thresholds within the Commissioner's discretion to adjust. I look forward to discussing the results of IRS's analysis.

Today, we will learn if the President's Six-Point Economic Growth Plan can be realized by specific paperwork reduction efforts identified by OMB and the IRS.

I want to welcome our witnesses today. They include: OMB's OIRA Administrator John D. Graham; IRS Commissioner and former OMB Deputy Director for Management Mark W. Everson; Patricia A. Dalton, Director, Strategic Issues, GAO; Daniel Clifton, Federal Affairs Manager, Americans for Tax Reform; Paul Hense, President, Paul A. Hense CPA, P.C., on behalf of the National Small Business Association; and, Raymond J. Keating, Chief Economist, Small Business Survival Committee.

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April 13, 2004

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

FROM: Doug Ose

SUBJECT: Briefing Memorandum for April 20, 2004 Hearing, "What is the Bush Administration's Economic Growth Plan Component for Paperwork Reduction?"

On Tuesday, April 20, 2004, at 2:00 p.m., in Room 2154 Rayburn House Office Building, the Subcommittee on Energy Policy, Natural Resources and Regulatory Affairs will hold its annual hearing on paperwork reduction. The hearing is entitled, "What is the Bush Administration's Economic Growth Plan Component for Paperwork Reduction?"

The President's February 2, 2004 Fiscal Year 2005 Budget of the U.S. Government outlines the President's Six-Point Economic Growth Plan. Point #4 is "[s]treamlining regulations and reporting requirements" (p. 10). Since the Internal Revenue Service (IRS) imposes over 80 percent of all paperwork burden levied on the public (including both individuals and businesses), this year's hearing will especially focus on the Administration's accomplishments since last April's hearing and its plan for future IRS paperwork reduction.

Paperwork Reduction Legislation

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

Attached is a chart that shows actions by Congress on paperwork reduction from 1995 to 2002, and the dates of OMB's responses to these Congressional mandates. In **1995**, Congress reauthorized the PRA and set government-wide paperwork burden reduction goals for Fiscal

Years (FYs) 1996 to 2001. After annual increases in paperwork, instead of decreases, in **1998**, Congress, in a provision in the 1999 Treasury-Postal Appropriations Act, required OMB to issue a report identifying specific expected paperwork reduction accomplishments in FYs 1999 and 2000. OMB's 1999 report only identified a limited number of specific expected reductions. For example, IRS identified no specific expected reductions in tax paperwork in FY 2000.

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

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

Paperwork Reduction Oversight

Annually, since 1999, proximate to the Federal tax return filing deadlines, the Subcommittee reviews agency progress during the last FY in reducing paperwork burden and agency plans for the current FY (which is nearly half over) to reduce paperwork. The record evidences a limited number of actual paperwork reduction accomplishments and a limited number of specific paperwork reduction initiatives. In fact paperwork increased, not decreased, in each year form 1996 to 2003.

During and after last year's hearing, the Subcommittee asked IRS to identify all paperwork thresholds within the Administrator's discretionary authority to set. On May 2, 2003, IRS responded that it

> is conducting an extensive review of the Internal Revenue Code to identify all the Code Sections that provide for 'thresholds' ... [IRS] is reviewing the regulations and all administrative provisions to identify such thresholds, elections, tolerances, etc. that could be adjusted, without requiring legislation, to reduce unnecessary taxpayer burden while maintaining appropriate levels of compliance.

From April 2001 to February 2004, the Subcommittee sent 14 oversight letters to OMB critical of its paperwork reduction performance, including about its lead role in implementation

of the **2002** Small Business Paperwork Relief Act (SBPRA). One question the Subcommittee posed was if OMB would disclose its role in paperwork reviews, similar to OMB's disclosures relating to its regulatory reviews. In addition, the Subcommittee wrote, "The number of specific paperwork reduction initiatives, especially for information collections imposing huge burdens, is disappointing and the number of unresolved Paperwork Reduction Act (PRA) violations (including one dating back to 1978 and two from the 1980s) is of significant concern." The Subcommittee asked OMB to provide an expected resolution date for each outstanding PRA violation.

Also included in these letters were requests for OMB to work jointly with: (a) the Departments of Agriculture and Interior to reduce farm paperwork; (b) DOL to focus on matters described in April 2002 testimony before the Subcommittee by the business community about specifically burdensome DOL paperwork and on the 38 DOL requirements each imposing over 500,000 hours on the public; and, (c) the Centers for Medicare and Medicaid Services in the Department of Health and Human Services to correct continuing violations of the PRA.

ICB submissions from the 27 agencies on last FY's paperwork reduction successes and this FY's initiatives were due to OMB on January 16, 2003. In its December 2, 2003 OMB Bulletin to the agencies for the FY 2004 ICB, OMB stated, "we are asking agencies to propose or identify **at least one new initiative** to improve program performance by enhancing the efficiency of information collections and reducing burden on small businesses (particularly those with fewer than 25 employees), farmers, or manufacturers" (emphasis added, pp. 3-4). The Subcommittee has requested that OMB's FY 2004 ICB report (for the FY ending September 30, 2004) be provided 48 hours before the hearing.

The invited witnesses for the April 20, 2004 hearing are: IRS Commissioner Mark W. Everson; OMB's OIRA Administrator John D. Graham; Patricia A. Dalton, Director, Strategic Issues, GAO; Daniel Clifton, Federal Affairs Manager, Americans for Tax Reform; Paul Hense, President, Paul A. Hense CPA, P.C., on behalf of the National Small Business Association; and, Raymond J. Keating, Chief Economist, Small Business Survival Committee.

Attachment

CONGRESSIONAL MANDATES ON PAPERWORK REDUCTION: 1995-2002

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

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

Prepared for Congressman Doug Ose

President's Six-Point Economic Growth Plan

1. Making health care costs more affordable and predictable.
2. Reducing the lawsuit burden on the economy.
3. Ensuring an affordable, reliable energy supply.
4. ***Streamlining regulations and reporting requirements.***
5. Opening new markets for American products.
6. Enabling families and businesses to plan for the future with confidence by making the tax cuts permanent.

Source: Fiscal Year 2005 Budget of the US Government, p. 10.

Paperwork Reduction Scorecard

Department/ Agency	Paperwork Burden in millions of hours	Paperwork Score	Comment
Agriculture	89	***F***	most PRA violations; only 1 big reduction
Commerce	12	D	15 violations; only 3 tiny reductions
Defense	47	D	30 violations; 2 big electronic decreases
Education	41	C	only 6 violations; 1 big & 2 small decreases
Energy	3	C	only 3 violations; 1 big reduction
HHS	***276***	***F***	3 big & 1 tiny decreases, 7 big non-stat. adds
DHS	84	D	24 violations; only 1 big reduction
HUD	26	***F***	21 violations; no new program decreases
Interior	7	***F***	no program decreases; 5 non-statutory adds
Justice	14	***F***	17 violations; 2 small non-statutory adds
Labor	***165***	***F***	***OSHA=68% of Labor***; 3 tiny decreases
State	31	***F***	increase in violations; no program decreases
Transportation	***254***	***F***	1 big /1 tiny new decreases, 3 big/5 tiny adds
Treasury	***6,590***	***F***	***IRS=81% of gov't.***; 2 big threshold & 3 other big decreases, 4 non-statutory big adds
Veterans Affairs	6	C	23 to 3 violations; 1 big & 4 tiny decreases
EPA	***149***	***F***	1 big & 5 small new decreases; 7 big adds
FAR	31	**B**	1 big & 8 small program decreases
FCC	27	***F***	4 violations; 4 tiny program decreases
FDIC	8	***F***	no burden reduction initiatives in ICB
FERC	5	**B**	2 big & 1 small program decreases
FTC	68	***F***	no burden reduction initiatives in ICB
NASA	6	D	1 large & no small program decreases
NSF	7	***F***	no burden reduction initiatives in ICB
NRC	9	D	1 medium & 3 tiny program decreases
SEC	***152***	***F***	no burden reduction initiatives in ICB
SBA	3	***F***	19 violations; no burden reduction initiatives
SSA	32	***F***	7 violations; no burden reduction initiatives
Government Total	8,122	*F*	

Prepared for Congressman Doug Ose

Mr. TIERNEY. Thank you, Mr. Chairman. Dr. Graham, once again for you, Mr. Everson, and to Ms. Dalton, thank you for your testimony today. I apologize in advance for the fact that I'll be leaving in a brief while because of a conflict, and normally I would defer to Mr. Waxman as the chairman of the committee, but he's been kind enough to allow me to go first here today so I can make the other appointment on time.

Today, the minority staff report prepared for Mr. Waxman and for me by staff has been released, and it concerns the government paperwork burdens. It reflects that, using General Accounting Office reports and Office of Management and Budget data, the burden of government paperwork on American citizens has substantially increased under the Bush administration.

Now, this is despite the fact that we had to listen to the President—and all of his rhetoric during the 2000 campaign and time and time again since his election—telling us how bad paperwork is a burden to the small business persons and on families and what a reduction we could expect during his administration.

However, when we look at the administration, we see that, in fiscal year 2000 the annual paperwork burden imposed by the Federal Government measured at 7.4 billion hours, and that is how it stood as this administration took office. By the end of fiscal year 2003, however, that burden had gone up to 8.1 billion hours, an increase of some 10 percent.

If we average that across the 109 million families in the United States, households, it would be a 6 hour per household increase annually.

The IRS accounts for more than any other agency, as the chairman indicated, that being 81 percent of the burden. So, you can see the increase in 2000, 7.4 billion hours; in 2001, 7.6 billion, an increase of 290 million hours; in 2002, an increase of 570 million hours, up to 8.2 billion hours of burden. A significant cause of that increase was the Economic Growth and Tax Relief Reconciliation Act of 2001. The amount of paperwork required by the Internal Revenue Service in fiscal year 2002 to implement that new law and other IRS regulations increased by 330 million hours.

So, 7.4 when this administration took office, up to 7.6 the next year, 8.2 the following year, to 8.1 billion in 2003, but even that figure of 8.1 billion, which is 0.1 down from the previous year is only as a matter of adjustments and not the result of direct Federal Government action. Instead, the General Accounting Office tells us that, even at a slight decrease, it was caused by other factors, such as agency reestimates of burdens associated with the collection of information.

The General Accounting Office concludes that, exclusive of those adjustments, the burden would be again up in fiscal year 2003 by some 72 million burden hours. Once again, that is probably attributable to changes in the tax laws in 2003. They generated an estimated 113.9 million additional hours of burden.

Now, I make those notes not because I think the IRS can't do anything about improving the burden of paperwork but because they also have to be helped by legislation that this Congress passes and the President proposes and fights to get passed by this body.

Also, I'll make note, Mr. Everson, that in my district there are people working at the Andover IRS Service Center being told that their jobs are in jeopardy because of a decrease in paperwork, when, in fact, we see quite the opposite is true. And, I hope we can take an evaluation of those changes in light of the information we find out of increasing paperwork burdens.

Also, just because I won't be here to ask questions, I want to raise for you the issue of, in that Andover IRS Service Center, they're projected to stop processing paper returns in 2008 and 2009, but we're told also that people working on the e-filing component may also lose their jobs as being transferred elsewhere, and I'd like to think that you might at some time have your people respond to this—to my office and indicate—and the committee, and indicate whether or not we can do something about that. Those people involved with the e-filing of returns, hopefully they will be able to continue their work at the Andover center, because they are not connected with the paperwork processing end of that. So, I'd appreciate it if you could respond to that either in writing or on the record and we'll take a look at that when I get back.

Mr. EVERSON. If I could just say something now since you're about to go. I was in Andover on—if that is OK?

Mr. OSE. It's not.

Mr. TIERNEY. Sorry about that, but I will try to get that information. I would love to have a conversation with you about that, and I appreciate your willingness to respond on that.

My last comment before I close here is that we are continually told about the burden of taxes in this country, but I think it's notable when we look at the information that the burden of taxes taken up by the corporate, the powers that be in this country, is somewhat reduced from almost 20 percent in past years now down to as low as—between 7 and 8 percent, and I would like to think that we have the proper attention to auditing and given the resources that the IRS needs in order to pursue those that might be shifting burdens in tax transfer policies or taking other evasive action to avoid their responsibilities. We can still look at people in the Earned Income Tax Credit, and I discussed this with you, Mr. Everson, at one of the other committee hearings that we had on the joint committee. We can do both, but the fact that we are putting so many efforts against those who are taking the EITC advantage on their taxes is a small return compared to your information that you gave us of the anticipated return if we give you the resources to go after the people that are really avoiding their fair share of the burden in a large way.

So, I appreciate your continued work in that regard. I'd like to hear more about what you're doing there and understand always that we have not been reducing this paperwork and I certainly hope that, as we move forward, our tax laws and other actions that we take as a Congress and at the White House will certainly make your job easier in that regard. I yield back.

Mr. OSE. For the gentleman from Massachusetts, the record will be left open for you to compose those in writing for Mr. Everson or any of the other witnesses.

Mr. TIERNEY. Thank you.

Mr. OSE. The gentleman from Virginia.

Mr. SCHROCK. Thank you, Mr. Chairman, and thank you for calling this very timely hearing. Last week, many of us had the unfortunate responsibility of filing our Federal taxes, but thankfully the financial burden on American taxpayers is lower because of the aggressive administration and Congress' administration. Several tax relief measures have lowered taxes for American families and small business owners, and we have seen numerous positive impacts that tax relief has made on our economy. Unfortunately, this relief has not been extended in the form of meaningful relief from the paperwork burden that Americans must face in their personal and professional lives in dealing with their tax paperwork and other regulatory paperwork requirements. Hours upon hours and millions of dollars are spent dealing with this burden, taking away valuable time that could have been spent on more worthwhile activities.

There is a light at the end of the tunnel, though. The President has made regulatory reform and paperwork relief a central part of his economic growth plan. Congress and this committee have shown on numerous occasions that we're ready to be partners in this effort, and we've passed a number of pieces of legislation to combat the regulatory burden placed on American individuals and small business.

This hearing is going to focus on the plans that the administration has for implementing its relief program. I welcome the input from all of our folks testifying today, and I look forward to working with them to continue the efforts of this committee in addressing the regulatory and paperwork burden as a means of driving economic growth in America. Thanks, Mr. Chairman.

Mr. OSE. The gentleman from California.

Mr. WAXMAN. Thank you very much, Mr. Chairman. This topic for today's hearing is an important one. The time and effort that Americans spend on filling out government paperwork, under the Paperwork Reduction Act, paperwork burdens are supposed to be getting smaller; but, in fact, just the opposite is happening. In preparation for this hearing, as Mr. Tierney indicated, we asked our staffs to examine what the President has said on this topic and to compare it to what has actually happened under the Bush administration.

We're releasing a report today. It shows that government paperwork burdens have increased substantially under the Bush administration. This report is based in large part on information that will be presented at this hearing by the General Accounting Office and the government witnesses.

This report calls into doubt the administration's commitment to reducing government paperwork. Over and over again, the President has promised that his administration will reduce the amount of time that Americans spend filling out government paperwork, but, what the report shows is that the President's rhetoric is directly at odds with his actions. Americans are spending dramatically more time on government paperwork since President Bush took office.

In the minds of many Members, it's becoming increasingly difficult to rely on what the President and his administration say. Over and over, President Bush and his top officials say one thing, but then they do the opposite. President Bush's promises on paper-

work are another example of saying one thing and doing the opposite.

As a candidate, Governor Bush criticized Federal paperwork and promised my administration will do things differently. In January 2001, President-elect Bush said, "On the Federal level, we require about 60 percent of the paperwork, and that's going to change." In May 2003, President Bush said, "this administration has launched a task force to find ways to reduce paperwork for small business owners in America." In September 2003, President Bush said, "We need to continue to work for regulatory relief on small and large businesses so that instead of filing needless paperwork you're working to make your work force more productive."

And, then, in November 2003, President Bush said, "We need to make sure our entrepreneurs are focused on job creation, not filling out needless paperwork." And, then, in February of this year, President Bush said, "The Federal Government must do everything we can to make the paperwork burden less on small businesses, not more."

Well, it can't be any more clear. The President has said the same thing over and over and over again, but the reality is that according to the administration's own reports, the amount of time Americans spend on government paperwork has soared under President Bush.

Last year, Americans spent 700 million more hours filling out government forms than they did during the last year of the Clinton administration. For the average household, paperwork burdens have increased more than 6 hours per year under the Bush administration.

This is a serious problem in its own right. Paperwork requirements represent a real cost to businesses and citizens. If reduction is important to the President's economic growth plan, well, maybe that's why the economic growth plan is not producing jobs, because we're spending more money on paperwork, and the requirements represent a cost that is being passed on. It's another one of those unfunded mandates. The States are getting their unfunded mandates. Businesses are forced to do things. Individuals are being forced to spend money on more and more paperwork. That's a problem, but I would submit that there's an even deeper problem here. The most valuable asset a government can have is the trust of the people. This trust is eroded when the commitments our President makes—not once but over and over and over again—are not borne out by his actions.

So, I'm pleased that we're having this hearing to explore this matter further. I would submit that this report we've done, which tries to use as few pages as possible with the writing on both sides, will give a very clear picture, not based on what we say but on what this administration's own people and what the GAO has to tell us, of what is really going on in this area of increased paperwork demands.

Mr. OSE. Does the gentleman wish to submit that for the record?

Mr. WAXMAN. Yes, I do.

Mr. OSE. Without objection.

[The prepared statement of Hon. Henry A. Waxman follows:]

Opening Statement
Rep. Henry A. Waxman
Subcommittee on Energy Policy, Natural Resources and Regulatory Affairs
Hearing on
Paperwork Reduction

April 20, 2004

Today's hearing is about an important topic: the time and effort that Americans spend on filling out government paperwork. Under the Paperwork Reduction Act, paperwork burdens are supposed to be getting smaller. But in fact, just the opposite is happening.

In preparation for this hearing, Representative Tierney and I asked our staffs to examine what the President has said on this topic and to compare it to what has actually happened under the Bush Administration. We are releasing a report today that shows the results of this comparison. It is based in large part on information that will be presented at this hearing by GAO and the government witnesses.

This report calls into doubt the Administration's commitment to reducing government paperwork. Over and over again, the President has promised that his Administration will reduce the amount of time that Americans spend filling out government paperwork. But what the report shows is that the President's rhetoric is directly at odds with his actions. Americans are spending dramatically more time on government paperwork since President Bush took office.

In the minds of many Americans, it is becoming increasingly difficult to rely on what the President and his Administration say. Over and over, President Bush and his top officials say one thing, but do the opposite.

President Bush's promises on paperwork are another example of saying one thing but doing the opposite.

As a candidate, Governor Bush criticized federal paperwork and promised: "My administration will do things differently."

In January 2001, President-elect Bush said: "On the federal level, we … require about 60 percent of the paperwork … and that's going to change."

In May 2003, President Bush said: "This administration has launched a task force to find ways to reduce paperwork for small-business owners in America."

In September 2003, President Bush said: "We need to continue to work for regulatory relief on small and large businesses, so that instead of filing needless paperwork, you're working to make your work force more productive."

In November 2003, President Bush said: "We need to make sure our entrepreneurs are focused on job creation, not filling out needless paperwork."

In February 2004, President Bush said: "The federal government . . . must do everything [we] can to make the paperwork burden less on small businesses, not more."

And just last month, President Bush said: "We need to stop harassing small business owners and entrepreneurs with endless amounts of regulation and paperwork."

But the reality is that according to the Administration's own reports, the amount of time Americans spend on government paperwork has soared under President Bush. Last year, Americans spent 700 million more hours filling out government forms than they did during the last year of the Clinton Administration.

For the average household, paperwork burdens have increased more than six hours per year under the Bush Administration.

This is a serious problem in its own right. Paperwork requirements represent a real cost to businesses and citizens, and are particularly burdensome for small businesses.

Yet there is an even deeper problem here. The most valuable asset a government can have is the trust of the people. This trust is eroded when the commitments a President makes are not borne out by his actions.

Mr. OSE. OK. There being no other Members—before we proceed, I do want to introduce the new vice chairman of this subcommittee. That would be the gentleman from Virginia, Mr. Schrock. So congratulations, I think.

As is the custom in Government Reform, we swear in all of our witnesses. It's not that we're singling you out or anything. We do this to everybody; so, if you'd all please rise.

[Witnesses sworn.]

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

All right. Our first witness today is the Administrator of the Office of Information and Regulatory Affairs at the Office of Management and Budget, Dr. John Graham. Dr. Graham, you're always welcome here. It's nice to see you again. You're recognized for 5 minutes.

STATEMENTS OF JOHN D. GRAHAM, ADMINISTRATOR, OFFICE OF INFORMATION AND REGULATORY AFFAIRS, OFFICE OF MANAGEMENT AND BUDGET; MARK W. EVERSON, COMMISSIONER, INTERNAL REVENUE SERVICE AND FORMER DEPUTY DIRECTOR FOR MANAGEMENT, OFFICE OF MANAGEMENT AND BUDGET; AND PATRICIA A. DALTON, DIRECTOR, STRATEGIC ISSUES, GENERAL ACCOUNTING OFFICE

Mr. GRAHAM. Thank you very much, Mr. Chairman, and I'm delighted to be here this afternoon, particularly since we do have some good news to report in the area of paperwork and regulatory burden.

The first point is that the overall magnitude of paperwork burden imposed by the Federal Government has declined in fiscal year 2003. This is the first recorded decline in paperwork burden since 1996. The percentage reduction, about 1.5 percent, will sound small, but it translates into 100 million fewer hours of hassle for citizens and small businesses. Indeed, if you look closely at the report that we have issued today, the specific actions of the executive agencies—of the administration—account for 53 million hours in reduction of paperwork burden.

Now, you have heard other members of the committee suggest that, in fact, paperwork burden has been increasing. But one thing that's important to keep in mind is that the actions of Congress also have a role to play in how much paperwork burden there is. In fact, this reduction would have been 110 million hours larger in the last year if Congress had not passed new laws that generate paperwork burden.

For example, Mr. Chairman, you and I have discussed the country of origin labeling requirement, which is a concrete example of Congress forcing the administration into additional recordkeeping and reporting requirements. We are making progress, but, of course, we need the help of Congress to accelerate that progress.

Point two: the frequency of paperwork violations has plummeted in the Bush administration. A paperwork violation is when the Federal Government, usually a regulatory agency, imposes a burden on citizens or businesses without authorization from Congress or the Office of Management and Budget. This flip chart on the left gives you the data, the most recent data we have on the frequency

of these unresolved paperwork violations. You see that since the beginning of the Bush administration there has been a 90 percent reduction in the number of paperwork violations, from 200 to less than 20 unlawful impositions of paperwork burden on citizens and small businesses.

Why has this 90 percent reduction occurred? It has occurred because, early in the administration, we adopted a zero tolerance policy on violations, and I might add, Mr. Chairman, I had some considerable encouragement from you to move in this direction. Indeed, we appreciated that tailwind in our efforts to reduce the paperwork reduction.

Point No. 3: This administration has blocked the growth in costly major regulations. You will notice that the fourth plank of the President's six-point plan is streamlined regulations and paperwork requirements, and let me give you a quantitative feel of the progress this administration has made in the regulatory area. We have insisted that new regulations be based upon science and engineering and economics, and the consequence of this stricter scrutiny is that we are slowing the growth of major costly regulations.

In the reports we have shared with you from 1987 to the year 2003, there were $103.6 billion in new costs of major regulations imposed on the private sector and State and local governments. This $103 billion are impositions on the private sector or on State and local governments. It doesn't account for any of the additional costs that are in the Federal budget itself.

Now, if you compare that, over that 17-year period, it's an average increase of $6.1 billion per year. For the first 3 years of the Bush administration, we have slashed that number by 80 percent, to $1.6 billion per year. The Bush administration has reduced the growth rate in costly regulations by 80 percent.

You might ask, Dr. Graham, why are you only talking about the growth of Federal regulation? Why don't you reduce the overall amount of regulation? I think you know the answer to that question. We are going to need the help from the Congress to actually make a reduction in the overall size of the regulatory burden. We can't have Congress forcing us to adopt new regulations at the same time as we seek to reduce regulatory burden.

We do have a major challenge ahead of us on the sea of existing regulations. 1,000 of these major rules have been adopted since 1980. We have a modest housekeeping effort underway: 100 of them are being examined. With your help, we will try to do a better job in this area, but the good news is the trend lines are in the right direction, and the President's economic plan is making a difference. Thank you very much.

[NOTE.—The information is available in subcommittee files and at http://www.whitehouse.gov/omb/infoeg/2004_icb_final.pdf.]

[The prepared statement of Mr. Graham follows:]

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

BEFORE THE
SUBCOMMITTEE ON ENERGY POLICY, NATURAL RESOURCES
AND REGULATORY AFFAIRS
COMMITTEE ON GOVERNMENT REFORM
UNITED STATES HOUSE OF REPRESENTATIVES
April 20, 2004

Good afternoon, Mr. Chairman, and Members of this Subcommittee. I am John D. Graham, Ph.D., Administrator, Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget. I am pleased to be back before this Subcommittee to discuss OIRA's ongoing efforts to improve the Federal government's performance in achieving the important goals and objectives of the Paperwork Reduction Act (PRA). OIRA is committed to improving the quality of the information collected, used, and disseminated, while also reducing the associated burdens that are imposed on the American public. I appreciate this Subcommittee's strong interest in information policy, and have enjoyed working with you and the Subcommittee to improve the manner in which Federal agencies collect, use, and disseminate information, while reducing the paperwork burdens that these activities impose on the public.

My testimony today accompanies the submission to Congress of OMB's Fiscal Year 2004 Information Collection Budget (ICB), which details the implementation of the PRA during my second Fiscal Year as OIRA Administrator. To begin my testimony, I will first discuss three major themes found throughout our information collection activities in FY 03. I will then respond to the questions that the Subcommittee posed in its invitation.

First, I am pleased to report that we have continued progress with our "zero tolerance" policy, which is aimed at ensuring that Federal agencies fully comply with their statutory obligations under the PRA. Soon after becoming OIRA Administrator in November of 2001, I conducted a number of activities to make clear to agencies that anything less than full compliance with the PRA was unacceptable. In particular, I was concerned about information collections that do not have current OMB approval but continue to be used by agencies. I sent memoranda to agencies emphasizing the importance of eliminating PRA violations, and personally met with agency officials to establish procedures that would prevent additional violations from occurring. During this past Fiscal Year I sent two additional memoranda to the Chief Information Officers of all agencies, one detailing their progress toward our goal of eliminating PRA violations and the other reinforcing the needed for a sustained focus on implementing procedures to prevent future violations.

These continual communications have resulted in measurable achievements in Fiscal Year 2004. At this time only 18 collections remain in violation. These 18 were collections that were either incurred in FY 2003, or had been outstanding collections from years past. In comparison, in my testimony on the ICB last year before this Subcommittee I reported that there were 62 violations remaining. Therefore, for this previous Fiscal Year we have achieved a 71 percent decrease in the number of violations. Furthermore, for all 18 of these violations either a 60-day *Federal Register* notice for public comment has been issued, which is the first step towards returning to compliance, or the collections have been submitted to OMB and are currently being reviewed. Although this is a substantive achievement, OIRA will continue to enforce a "zero tolerance" policy for violations.

Second, OIRA has made a substantial start in the difficult but necessary long-term task of reducing paperwork burden on small businesses. These efforts are largely a result of the implementation of the Small Business Paperwork Relief Act of 2002 (SBPRA). This is one of a series of laws enacted in recent years whose purpose is to address the burden imposed upon small businesses by Federal regulatory and paperwork requirements. Under SBPRA, Federal agencies have developed information to help the small business community better comply with paperwork requirements, while minimizing burden.

In compliance with the Act and in consultation with the Small Business Administration, OMB has published a list of compliance assistance resources available to small businesses. Also in compliance with the Act, OMB has worked with Federal agencies and the Small Business Administration to consolidate the list of points of contact who act as liaisons between the agencies and small businesses. This centralized resource makes it easier for small businesses to find compliance information. This list of compliance assistance materials and agency points of contact can be found on the OMB website.

Furthermore, a task force established by SBPRA on information collection and dissemination, chaired by OMB, is preparing to implement its Business Gateway initiative in September 2004. This initiative is a Federal cross-agency infrastructure designed to: (1) provide useful regulatory information in one place, (2) eliminate redundant data collection, and (3) provide electronically fill-able, file-able, and sign-able forms.

In September, the first of three phases will be implemented, enabling users to select from an aggregation of links to Federal web sites selected for content and services relevant to small businesses. The timelines for subsequent phase implementation are yet to be determined.

Third, OMB has sustained efforts to foster the use of the Internet to make the government available to citizens online, both to reduce the burden on the public and make government more accessible. The foundation for e-government is largely a result of the implementation of the Government Paperwork Elimination Act (GPEA) of 1998 and

the E-Government Act of 2002. GPEA requires agencies to provide for electronic submission of information, including electronic signature and proper security, when it is practicable for agencies to do so. GPEA required agencies by October 21, 2003, to provide for the (1) option of electronic maintenance, submission, or disclosure of information, when practicable as a substitute for paper; and (2) use and acceptance of electronic signatures, when practicable. GPEA states that electronic records and their related electronic signatures are not to be denied legal effect, validity, or enforceability merely because they are in electronic form.

Since September of 2000, OMB has been tracking agency compliance with GPEA. Agencies have been aggressively working to meet the GPEA deadline, focusing on those transactions that will provide the greatest benefit to citizens. During the first two years of the Act's implementation, 1,800 transactions could be conducted electronically. As of December 2003, around 4,000 government transactions could be conducted electronically. This represents 56 percent of the approximately 7,000 potential transactions meeting the GPEA deadline to provide an electronic option. While we would like the percentage to be higher, we understand that many transactions such as one-time surveys, product labels, and collections affecting a small population are not suitable or cost effective to be conducted on the Internet. We will continue to enforce compliance as we review agencies' information collections. Later in my testimony I will provide examples of how agencies' implementation of GPEA has reduced burden, including two examples from the Department of Defense, where the combined reductions total approximately 40 million hours.

At this time I will address the three specific issues you requested in your letter of invitation to me, which are: (1) expected resolution dates for each outstanding PRA violation; (2) OIRA's contribution to paperwork reduction initiatives by the IRS; and (3) a detailed plan for the "Streamlining regulations and reporting requirements" component of the President's Six-Point Economic Growth Plan, found in the FY 2005 Budget. Then I will address the specific reductions in reporting and recordkeeping requirements of at least 250,000 hours accomplished since last year's ICB hearing of April 11, 2003, as well as the reductions of at least 250,000 hours expected in the next Fiscal Year. Finally, I will describe some agency initiatives for improving agency performance and reducing burden.

Expected resolution dates for each outstanding PRA violation

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

At last year's hearing I reported that there remained 62 unresolved violations for FY 2002. This was a sizeable reduction from the 110 in FY 2001, and represented a 55 percent reduction from FY 2001 to FY 2002. For FY 2003, we have surpassed last year's achievement, having just 18 violations outstanding from FY 2003, as of April 16, 2004. This represents a nearly 71 percent decrease in the number of violations from last year. To clarify, these 18 violations consist of violations incurred in FY 2003, as well as those violations that remained from previous years. For FY 2003, OIRA identified 238 violations that either occurred in FY 2003 or were incurred in previous Fiscal Years and carried into FY 2003. Through rigorous work with the agencies, OIRA was able to bring 220 of those collections into full compliance, and out of violation. I'd like to share with you some of our efforts made in the past year to reduce violations:

May 8, 2003 memorandum to agencies. I sent a memorandum to the Chief Information Officers (CIOs) of all agencies asking for a sustained focus on ensuring that agencies have effective procedures in place to avoid future violations. The memorandum reminded CIOs to review their agency's procedures for avoiding future violations. Furthermore, this memorandum urged CIOs to review the status of collections in their PRA inventory.

FY 2003 ICB Bulletin. In last year's ICB (FY 2003 report on FY 2002), OMB requested that agencies provide a list of violations that occurred in the past Fiscal Year, and to update previously reported violations, as was required in prior ICB bulletins. In addition, OMB required that agencies provide us with a *Federal Register* citation and publication date for the initial 60-day notice requesting public comment on their ICB submission.

Continued notification to agency staff of upcoming expiring collections. As part of standard procedures to ensure PRA compliance, each month OMB sends an inventory to each agency which lists all of the collections that will expire in the next 150 days. This provides the agency with ample time to prepare a 60-day *Federal Register* notice, incorporate any public comments from the notice into the collection, submit the collection to OMB for a 30-day review period, and receive clearance for the collection.

These efforts I just described follow the previous year's efforts, which I mentioned earlier in my testimony. I would like to share just one example of how these violation-reduction efforts have impacted one agency in particular, the Department of Housing and Urban Development (HUD). In 2002 I met with HUD's Chief Information Officer and General Counsel and sent a memorandum to HUD's Deputy Secretary, to assist HUD in creating a plan for ensuring PRA compliance. These HUD officials were extremely responsive and resolved to improve their agency's PRA performance. At the end of FY 2001, HUD had had a total of 37 violations. By the end of FY 2002, the Department had only 18 violations. As of April 16, 2004, HUD has just one violation remaining from FY 2003, which is currently at OMB undergoing review.

As you can see, OMB has made eliminating violations a priority. As I stated earlier, there are 18 violations remaining from FY 2003 as of April 16. Of these remaining 18 collections in violation, 11 have been submitted to OMB and are

undergoing review by OIRA staff. I expect these 11 to be approved and back in compliance by the end of this month. The remaining eight have had or are undergoing a 60-day *Federal Register* notice for public comment. If agencies submit collections to OMB soon after the 60-day public comment period closes, I expect that these eight collections will be back in compliance within the next three to four months.

Please see the Appendix of my testimony for a chart of the number of violations over time.

OIRA's contribution to paperwork reduction initiatives by the IRS

I welcome this opportunity to clarify how the Internal Revenue Service's (IRS) substantial paperwork burden on American taxpayers – both individuals and businesses - fits into the total information collection story. As we all know, completing any type of tax form leaves many citizens wondering about the complexity and seemingly illogical taxation of income. Unfortunately, there is little that is straightforward and simple in preparing and filing individual income tax returns. Completing a tax return can be compared to a complex numbers game filled with additions, subtractions, special rules, special rates, carryovers, adjustments . . . the list goes on and on.

However, we must not lose sight of the truth regarding IRS paperwork. The reality is that our complex tax system is not the product of administrative actions of the IRS but of well-intended choices made by elected representatives of the people. Furthermore, our system is the result of our constitutional structure and a balancing of competing interests and compromise.

Federal tax policy is the result of many factors. Paperwork reduction can be a consideration during the legislative process but – as we know – there are many other factors that must be considered in the formulation of tax policy. Both Congress, through its committee structure, and the Executive Branch, in its organization, recognize the vital importance of taxation as the lifeblood of all government. It is essential to the funding and functioning of our Federal government. Consideration of paperwork burden, although important, can never be considered in isolation.

I will now briefly outline OIRA's work with IRS on paperwork burden reduction. We have a close working relationship with the IRS in this area. The IRS devotes considerable resources to the development of forms to minimize taxpayer burden. Forms development in the IRS utilizes the policy and graphic layout expertise of numerous individuals as well as public focus groups. We believe that more so than with any other agency, IRS utilizes public focus groups to gather information on how to make improvements in how it collects information. OMB formally reviews requests for paperwork approval only after they have gone through a comprehensive IRS and Treasury development and review process. We continue to believe that although the primary work and responsibility in this area resides in the IRS, OMB's review of recurrent submissions from IRS over a twenty year period has had a sentinel effect and contributed positively toward curbing excess IRS paperwork.

OMB is always interested in identifying opportunities for IRS burden reduction, both independently and in collaboration with the IRS and other agencies. During the past year, OMB, in conjunction with a public meeting for small business representatives chaired by the Small Business Administration's Office of Advocacy, requested identification of specific examples of possible opportunities to reduce IRS paperwork burden. Also, OMB asked the public, in the context of our draft report on the costs and benefits of Federal regulation, to recommend specific IRS paperwork requirements that can and should be reduced to lessen burden on the small business sector. It is too early to assess results. However, we do think that any dialogue in this area is useful as a foundation and may lead to more focused work in the future. We are in continuing dialogue with IRS and SBA staff to facilitate better coordination between those agencies in the areas of taxpayer education and assistance.

As you may know, IRS has underway an effort to revise the methodology used to compute taxpayer burden. The current IRS methodology, based on survey data almost twenty years old, is more sophisticated than the approach used by most agencies. Nevertheless, it measures only certain types of taxpayer burdens and has limited ability to predict changes in compliance burden resulting from changes in tax policy or tax system administration. OMB has been supportive of this undertaking to revise the IRS burden methodology since its beginning during the last administration. More accurate measurement of burden can lead to more informed decisions.

In the ICB, we have outlined several substantial paperwork reduction initiatives that affected 2002 tax year filings and consequently impacted IRS paperwork burden during FY 2003. These involved an increased threshold for filing Form 1040 Schedule B, detailing interest and dividend payments received by individual taxpayers. By raising this threshold to $1,500 from the previous level of $400, taxpayer burden was decreased by over 15 million hours. Although taxpayers still must report total dividends and interest, the detailed reporting is no longer required for many.

Similarly, IRS implemented changes affecting tax year 2002 for small businesses who file corporate income tax returns so that companies having less than $250,000 in gross receipts and $250,000 in gross assets no longer have to report certain detailed information. These changes affected some 2.6 million small businesses and were estimated to reduce burden by over 50 million hours annually. These reductions are discussed in more detail in this year's Information Collection Budget, describing FY 2003 activities.

IRS-initiated burden reduction decreases in FY 2003 were more than offset by the burden to implement statutorily-mandated changes. For example the Jobs and Growth Tax Relief Act of 2003 resulted in changes to a number of tax forms. Net burden increases for those forms exceeded 38 million hours. Major provisions of that statute affected the tax treatment of dividends and capital gains. This resulted in changes to forms that required additional lines, revised detailed instructions and created new worksheets. These changes affected not only forms used by individual taxpayers but the

content of reporting required by payers of dividends and reports from brokers on the proceeds from transactions. These changes, resulting in more complexity have received much public attention; however, they are compelled by the complexity of the tax code enacted by Congress.

Detailed plan for the "Streamlining regulations and reporting requirements" component of the President's Six-Point Economic Growth Plan

As part of the President's Six-Point Plan for Economic Growth, the Administration is pursuing a "smart" regulation agenda, which will streamline regulations and reporting requirements. This means adopting rules only when justified by sound science, economics and the law, and modernizing existing rules. In particular, the following activities are being pursued:

- Enforcing Rigorous Analysis of New Regulations: We follow the regulatory management principles in Executive Order 12866 – cost-effective regulation based on sound science, and we are vigorously implementing these principles. We have strengthened and modernized agency guidance to the agencies on state-of-the-art regulatory impact analysis (see OMB Circular A-4).

- Targeting Rules Impacting Small Businesses: The President issued an Executive Order, (E.O. 13272, "Proper Consideration of Small Entities in Agency Rulemaking"), directing all agencies to avoid imposing unnecessary regulatory burdens on small businesses, small communities, and non-profit organizations. Furthermore, OIRA and the SBA Office of Advocacy have established a Memorandum of Understanding which compliments this E.O., and is intended to generate better agency compliance with the Regulatory Flexibility Act and other statutes requiring an economic analysis of proposed regulations. Also, OMB launched an interagency task force to reduce the paperwork burden on small businesses and to provide Internet-based methods for small businesses to learn how to comply with regulations.

- Modernizing and Streamlining Outdated Rules: This Administration has initiated a public notice-and-comment process allowing the public to suggest outdated, burdensome regulations and guidance documents in need of reform. About 100 reforms are adopted or underway based on nominations received in 2001 and 2002. OMB works with the agencies on high priority reforms. This year, OMB has requested public nominations of rules that should be streamlined to improve job creation and competitiveness of the manufacturing sector of the U.S. economy.

- Establishing Information Quality Standards for Regulators: To implement information quality legislation passed by Congress, OMB has issued government-wide guidelines promoting quality control standards for the wide variety of information disseminated by the agencies. In turn, the agencies have developed more detailed data quality guidelines tailored to their programs. These guidelines provide the public with an opportunity to petition agencies to correct flawed information.

- Peer Review Standards for Agency Scientific Information: OMB and the Office of Science and Technology Policy (OSTP) are developing government-wide standards for peer review of scientific information used for influential agency decisions and pronouncements.

The Bush Administration's more rigorous approach to regulatory reform is having a substantial, measurable impact on the growth of regulatory burdens. The Appendix to this testimony presents agency estimates of the total costs of new regulatory mandates by year from 1987 through 2003. The estimates include only those major Federal rules with impacts on the private sector and State and local governments, the kinds of rules that OIRA is most responsible for reviewing (in other words, rules that induce Federal budgetary expenditures are excluded). What these data show is that there has been roughly an 80 percent reduction in the growth of major regulatory burdens under this Administration. At the same time that we have reduced the growth of costly rules, we have moved forward with vital new regulations in diverse fields such as homeland security (e.g., border protection), food safety (e.g., labeling of the trans-fat content of foods) and environmental protection (e.g., slashing emissions from diesel engines).

Although curbing the growth of regulatory burdens is an important accomplishment, we acknowledge that much more needs to be done to modernize the sea of existing Federal regulations, guidance documents and paperwork requirements. As a modest start, this Administration -- through initiatives begun in 2001 and 2002 -- has reformed or is in the process of reforming about 100 existing regulations. As I mentioned earlier, we are now in the process of a targeted effort to streamline existing regulations of the manufacturing sector of the economy. At this time we are accepting public comments through May 20 on our draft *2004 Report to Congress on the Costs and Benefits of Federal Regulation.* This draft report reviewed the economics literature on the impacts of regulation on manufacturing enterprises, and specifically requested public nominations of regulatory reforms relevant to the manufacturing sector. Please see the Appendix to my testimony for information on the reduction of the costs of regulatory burden over the last 17 years, as well as examples of regulatory reforms currently underway.

Reductions in reporting and information collection for FY 2003

The public spent about 8.1 billion hours responding to or complying with information requirements. This represents a 1.5 percent decrease compared to last year's burden total of 8.2 billion hours. While the majority of this decrease, approximately 158 million hours, is simply a product of agency re-estimates or factors outside the agency's control, agency actions also reduced burden by approximately 54 million hours. These declines in burden were offset by an increase in burden of about 111 million hours from the implementation of new statutes passed by Congress.

A variety of influences affected burden hours during the past Fiscal Year. I'd like to take a few moments to discuss how agencies are able to reduce burden. Burden can be reduced in several ways: one is to eliminate questions from a form; another is to increase reporting "thresholds" and thereby exempt whole categories of persons from having to

respond to a collection; and another is to use information technology to make it easier for the public to comply with Federal paperwork collections. And, in addition to the improvements that have been made in individual collections, the Executive Branch has been taking action to identify ways to reduce paperwork burden on a broader, across-the-board basis through our implementation of the laws that Congress has enacted in recent years. As I discussed earlier, these laws include the Small Business Paperwork Reduction Act and the Government Paperwork Elimination Act. Finally, the importance of paperwork reduction needs to be understood in the context of larger efforts to reform the regulatory system and the tax code. Most paperwork burden is rooted in a statute or implementing regulations, and thus in some cases (the Internal Revenue Code is a notable example) one cannot easily reduce paperwork burden without reforming the governing statute and program regulations.

Through these methods of burden reduction, agencies were able to contribute many reductions that were in excess of 250,000 hours. Burden reductions can be generally categorized as reductions from: cutting redundancy; using information technology; changing regulations; changing forms; or statutory changes. The following are some examples of reductions made in FY 2003. I invite you to view the complete listing of burden reduction efforts in Appendix B of the ICB.

Cutting Redundancy

- The Department of the Treasury deleted worksheets on the Form 1040A used for Income Tax Returns by individual taxpayers to report their taxable income and calculate their correct liability. As a result, the Department reduced burden by approximately 5.2 million hours.

Using Information Technology

- The Department of Defense implemented electronic collection of the information required from contractors for its Acquisition Management Systems and Data Requirements Control List, which is used in contracts for supplies, services, hardware, and software. Automation decreased burden by an estimated 26 million hours per year for the affected firms.

- The Department of Defense enabled electronic transmittal of the information required for its Acquisition Process Solicitation Requirements. This information supports contractor solicitations for Department of Defense contracts. Electronic transmittal and reduced information requirements have reduced the burden on participating contractors by over 14 million hours per year.

Changing Regulations and Forms

- The Department of the Treasury changed regulations so that two paperwork collections saw a reduction in burden. Corporations with total receipts and assets of less than $250,000 are no longer required to complete several forms. Furthermore, changes were made throughout additional forms, schedules, instructions, and attachments, resulting in a burden reduction of 37.4 million hours for small businesses.

Statutory Changes

- The NAFTA Implementation Act significantly reduced Modernization Act Recordkeeping Requirements maintained by the Department of Homeland Security by reducing the number of companies that were eligible for the Drawback Program, a program that required extensive recordkeeping. The law reduced the number of respondents that were required to keep records, resulting in approximately 2.2 million hours in burden reduction.

Looking Ahead: Expected reductions in reporting and recordkeeping requirements for FY 2004

In addition to the efforts made to reduce burden in FY 2003, the following are examples of burden reductions of at least 250,000 hours expected in the coming Fiscal Year (10/1/04 – 9/30/05). Again, I invite you to view the complete listing of burden reduction efforts in Appendix B of the ICB:

Cutting Redundancy

- The Department of Veterans Affairs will streamline its data collection for the application and renewal of health benefits by redesigning its form to better include questions on race and ethnicity. Additionally, a new form will be used by veterans to update their personal information, and therefore eliminate the need to report on information that does not change. This will reduce burden by an estimated 541,667 hours per year.

Changing Regulations

- The Department of Agriculture will consolidate thirteen regulations into a single regulation for Multi-Family Housing Programs. This action is being taken to reduce regulations, assure quality housing for residents, improve customer service, and improve the Agency's ability to manage the programs' portfolio. As a result, the program can better ensure that applicants meet program requirements and repay loans. It is estimated that this may reduce burden by 894,833 hours.

- The Department of Defense plans several rule changes relating to Defense Federal Acquisition Regulation Supplement (DFARS) that are expected to reduce burden on the contractor community by eliminating, reducing and streamlining information requirements relating to Defense acquisitions. It is estimated that these changes will reduce burden by over 323,000 hours per year,

Agency Initiatives to Improve Agency Performance and Reduce Burden

As the examples given above for the upcoming Fiscal Year demonstrate, OMB and the agencies are already looking ahead for places where burden can be reduced. The combination of initiatives in the small business and e-gov arenas, along with cuts in redundancy and changes in regulations, forms and statutes, provide an array of tools for burden reduction. Also, OMB asked each agency to provide a summary progress report on initiatives identified in last year's ICB and on newly planned initiatives. In response

to this request, agencies reported on numerous initiatives that have made or have the potential to make meaningful improvements for the public. Below is a selection of these initiatives. A complete list of initiatives is in Chapter VI of the ICB. These initiatives include ongoing and planned agency initiatives expected to significantly reduce the paperwork burden on a large number of small businesses, in addition to initiatives to reduce burden on the general public. The following initiatives show that there has been and continues to be a special focus by OMB and agencies to consider the burdens that their proposed paperwork requirements would impose on small businesses:

Reduction Initiatives with an impact on Small Businesses:

Program System Contracts (ProTracts). USDA plans to implement ProTracts, a web-enabled application that eliminates several paperwork steps and streamlines the program application and cost-sharing agreements for conservation programs. ProTracts became operational nationally for the Environmental Quality Incentives Program (EQIP), the Wildlife Habitat Incentives Program (WHIP), and the Agricultural Management Assistance (AMA) program in October 2003. ProTracts has the functionality and potential to be integrated with other agencies' automated processes. Almost all of the participants in cost-share contracts are classified as small businesses. The system will allow USDA customers to go on-line to complete and submit a program contract application. This online capability will significantly reduce the paperwork burden for small businesses and other conservation stakeholders. In seven pilot States USDA clients using ProTracts completed the required paperwork in 75 percent of the time required to complete manual contracts. This timesaving will increase as USDA simplifies contracting processes and fully implements electronic signatures.

Integration of PRO-Net and Central Contractor Registration (CCR) Systems. SBA partnered with the Department of Defense (DOD), the Office of Management and Budget (OMB), and the General Services Administration (GSA) to establish a single vendor registration point for small businesses to do business with Federal, State, and local governments, and prime contractors, and the acquisition community for small business procurement preference programs. CCR electronically shares the data with Federal agencies to facilitate paperless procurement and payment through Electronic Funds Transfer. On December 31, 2003, CCR assumed all of PRO Net's search capabilities and functions, and small businesses no longer have to manually register in both PRO Net and CCR. This initiative eliminated the need for small businesses to enter the same information into many different databases, when they wish to do business with the government.

Previous and ongoing initiatives:

Common Data Definitions. The Department of Education is working to develop a language with common data definitions to enhance communication between the department and its partners. The effort started with analysis of approved collections under the Paperwork Reduction Act. The department identified 27 data elements used in those collections that met the criteria for "consensus" status. Also, the Performance-

Based Data Management Initiative (PBDMI) has accelerated this effort, allowing for prepopulated data fields for simplified customer and staff use. Completion of the department's data architecture in FY 2004 will further enhance the effort to develop a comprehensive data dictionary.

Public and Indian Housing Information Center. HUD's Office of Public and Indian Housing's Information Center allows participating business partners to collect and process information electronically. Enhancements last year allowed seven OMB approved information collections to be conducted electronically. The initiative will continue to reduce burden, as was demonstrated by one collection which had a 3.6 percent reduction in burden (170,000 hours) after being incorporated into the initiative. HUD expects that additional system enhancements during FY 2004 will automate the processing of four more information collections; automation of eight more collections is expected in FY 2005.

eDecs. The U.S. Fish and Wildlife Service's (FWS) Office of Law Enforcement allows submission of electronic declarations and fee payments for import or export of fish and wildlife. Electronic submission began in June 2002, and electronic fee payment (which was enabled by a successful partnership between the FWS and the Department of the Treasury) began in April 2003. Because the system is on the Internet, many filers no longer have to be in the same location as the shipment they are trying to import or export. This remote filing ability greatly reduces the burden on small businesses and, in particular, on researchers returning to the United States, who may file their entry and begin the review process while they are still abroad. The *eDecs* will reduce annual burden hours on the public and decrease the time needed to process forms. Nearly one-third of those required to complete the declaration and pay fees already use eDecs, and this percentage is expected to increase.

RCRA Burden Reduction Initiative. The Environmental Protection Agency plans to amend its regulations to significantly reduce the paperwork burden imposed under the Resource Conservation and Recovery Act (RCRA). For example, the rule establishes higher chemical use thresholds for small businesses (facilities below these thresholds would not have to report). EPA wants to ensure that only the information actually needed to run the RCRA program is collected. EPA estimates that the initiative will reduce burden by 929,000 hours and save $120 million annually. A proposed rule was published in 2002, and public comment was solicited on new burden reduction items in 2003. EPA plans to issue a final rule in June 2004.

New Initiatives:

Standards For Business Practices Of Natural Gas Pipelines. FERC adopted consensus standards of the North American Energy Standards Board for the business and communication practices of interstate pipelines. This will streamline the way pipelines and their customers/shippers receive and send important information. Standardizing business practices will improve the efficiency of the gas market and how the gas industry conducts business across the interstate pipeline grid. These standards provide additional

flexibility to shippers, and improve current practices for conducting business over the Internet. FERC expects the standards, which went into effect July 1, 2003, to reduce burden imposed on natural gas pipelines by over 600,000 hours per year.

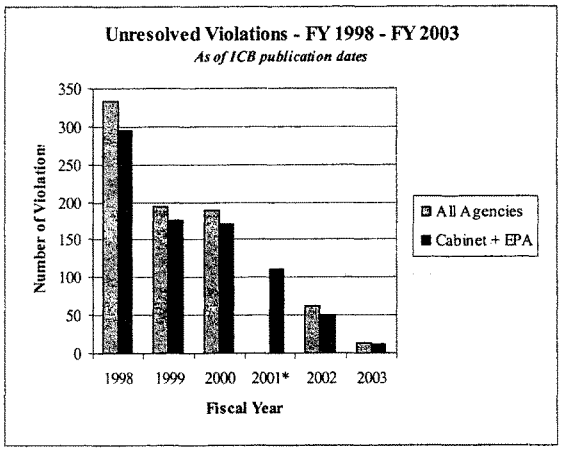
ES-202 Program: Multiple Worksite Report (MWR) and Report of Federal Employment and Wages (RFEW). Using the Department of Labor's Electronic Data Interchange Center, approximately 200 businesses and Federal agencies avoided filing 7,186 paper reports for the second quarter, 2003, or a projected 28,744 total paper reports for the year. This results in an annual burden hour reduction of approximately 10,635 hours for these firms.

That concludes my prepared testimony.

APPENDIX

Appendix A. Number of Paperwork Violations Over Time

In the late 1990's, agencies frequently allowed violations of the PRA to occur: OMB's approval of a continuing collection would lapse without the approval being renewed by the agency. In the fall of 2001, OMB emphasized to the agencies the critical importance of full compliance with the PRA and, in particular, the need to avoid lapses in OMB approval for continuing collections. In last year's ICB, OIRA demonstrated that the number of violations was steadily decreasing between FY 2001 and FY 2002, with just 62 violations outstanding. For FY 2003, OMB worked with agencies to not only reduce the number of violations that occurred in FY 2003, but also to resolve some lingering violations from previous Fiscal Years. As of April 16, 2004, there were just 18 violations remaining on record from FY 2003 and prior Fiscal Years – this is a 71 percent decrease from the FY 2002 ICB. These 18 are either undergoing a 60-day Federal Register notice for public comment (the first step in obtaining authority to collect information under the PRA) or are currently at OMB under the 30-day mandatory review period awaiting approval. The chart below displays the accelerated drop in outstanding PRA violations.



** Only Cabinet agencies and EPA were addressed in the FY 2001 report.*

\ppendix B. Progress in Regulatory Reform

\ew Regulations

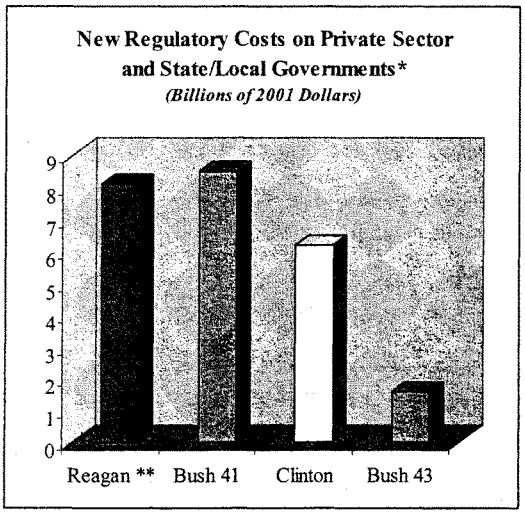
Each year since 1987 OIRA has collected estimates of the new regulatory costs mposed on the economy by major rules, (rules over $100 million), due to actions by :abinet agencies and EPA that were reviewed by OIRA. Over the 17-year period from 987 to 2003, these new regulatory costs added a total of $103.6 billion per year to the otal costs of regulation. Included in this $103.6 billion figure are the major new unfunded mandates" that impose capital and labor costs on the private sector or State nd local governments. (Excluded from the figure are new rules whose costs are eflected in the Federal budget).

A useful way to compare the burdens of new regulatory policy in this \dministration is to examine the year-by-year additions to regulatory burden since OIRA egan this exercise in 1987. Below are the data presented in two tables: by year and the verages for the last four Administrations.

The Economic Burdens of New Major Rules by Year, 1987-2003

Year	Cost (in billions of 2001 dollars)	Number of rules over $1 billion
1987	3.6	N/A
1988	12.5	N/A
1989	4.1	N/A
1990	3.8	0
1991	9.7	2
1992	16.3	7
1993	5.1	2
1994	8.7	2
1995	3.5	0
1996	2.6	1
1997	2.4	0
1998	5.4	1
1999	8.4	3
2000	13.1	4
2001	0	0
2002	1.9	0
2003	2.5	1
Total	**103.6**	**23**

lotes: From 1997 to 2000, costs are on a regulatory year basis with April 1 of the year listed as the start. tarting in 2002 costs are on a Fiscal Year basis with Oct 1, 2001 the start. (There were no costs April thru Sept 3 001).



** Average annual costs over Administrations, from Bush 43 to 9/30/03. Excludes regulation-induced expenditures that are included in the Federal Budget.*
*** Only the last two years of the Reagan Administration are accounted for in this chart.*

Over the full 17-year period, the average increase in regulatory burden from new rules was $6.1 billion per year. During the first 32 months of this Administration, the comparable figure is an average increase of $1.6 billion. That means there has been roughly an 80 percent reduction in the growth of major regulatory burdens in the Bush Administration. OIRA staff caution, however, that the fourth year of an Administration is typically the worst from the perspective of regulatory burden. For example, the last year of the Clinton Administration added a whopping $13 billion in new regulatory burden –
and that figure does not include the expensive OSHA ergonomics rule that Congress disapproved at the beginning of this Administration.

An even better measure of new regulatory performance would be net benefits (benefits minus costs to society). However, many major rules lack quantitative benefit information and thus it is difficult to make a similar historical comparison for benefits and net benefits. However, OIRA staff is preparing whatever information on benefits is available and we plan to present that information in the 2004 OMB Report to Congress on the Costs and Benefits of Regulation. For a more complete discussion of 1987-2003 data on the costs of major Federal rules, see the draft 2004 OMB Report to Congress on the Costs and Benefits of Federal Regulation (located at http://www.whitehouse.gov/omb/).

Reform of existing regulations

The sea of existing Federal regulations represents a much more difficult challenge since OMB has cleared over 1,000 major new regulations since 1980, when OMB began to keep records. To the best of our knowledge, most of these major rules have never been examined to determine their actual benefits and costs. This Administration has begun a modest effort to modernize existing regulatory programs based on public nominations of promising reforms. Here are some concrete examples of promising reforms that are completed or underway:

- *Rescission of DOT's Outmoded Airline Ticketing Rule.* In January 2004 the Department of Transportation decided to deregulate airline computer reservation systems. DOT concluded that, due to the rise of Internet ticketing and other competitive forces, this entire regulatory program can be phased out. The elimination of these rules could save airline passengers and companies as much as $1.9 billion per year. A sunset provision that Congress had added to DOT's statutory authority played an important role in this success story in deregulation.

- *The Department of the Interior's Rulemaking Incentives for New Gas Production.* In January 2004 the Department of Interior's Minerals Management Service issued a final rule creating new incentives for natural gas development in hard-to-reach areas of the Gulf of Mexico. This rule will save American consumers an estimated $570 million per year, create as many as 26,000 new jobs, and help boost our nation's energy production. The rule is structured to avoid any significant adverse environmental impacts while stimulating the development of new sources of clean natural gas.

- *EPA, Effluent Guidelines for Stormwater Runoff from Construction Sites.* In the Spring of 2002, EPA submitted for interagency review a draft proposed rule under the Clean Water Act to set nationwide controls for stormwater runoff, including post-construction runoff, from all construction sites 1 acre or larger. During interagency review, concerns were raised about the proposal's high cost ($4.1 billion per year) and adverse impacts on small businesses, jobs, affordable housing, and highway construction. Concerns also were raised that the rule could create unintended health and safety risks. The benefits (protecting the ecology of small streams) of the rule did not appear to justify either its high costs or the unprecedented Federal intrusion into local land-use and water resource planning. In its recent final decision, EPA determined that a more effective way to deal with construction-related runoff was to support existing State and local efforts through its existing Phase I and Phase II Stormwater Programs.

Managing Information Collection

Information Collection Budget of the United States Government

FISCAL YEAR 2004

OFFICE OF MANAGEMENT AND BUDGET
OFFICE OF INFORMATION AND REGULATORY AFFAIRS

Mr. OSE. Thank you, Dr. Graham.

Our next witness joins us, I think, for the first time, the Commissioner of the Internal Revenue Service—joining us for his initial foray here—Mr. Mark Everson. Sir, welcome to the witness table. You're recognized for 5 minutes.

Mr. EVERSON. Thank you, Mr. Chairman, Mr. Vice Chairman, for the opportunity to testify on the IRS's efforts to reduce unnecessary taxpayer burden. Our goal is to impose the least amount of burden necessary for taxpayers to meet their tax responsibilities. Our working equation at the IRS is simple: service plus enforcement equals compliance. Service means helping taxpayers understand their tax obligations and facilitating their participation in the system. Excessive paperwork costs taxpayers time and money and causes uncertainty and anxiety. It hinders the ability of the taxpayer to comply with the tax laws and weakens our ability to enforce those laws.

As to compliance with the Paperwork Reduction Act, I want to assure this subcommittee that this is a high priority. I would note, that of the 223 violations of the act which GAO identified as occurring during fiscal year 2003, none, none were from the IRS, despite the fact that just over 80 percent of the total paperwork burden is generated by the Tax Code. I think that's a laudable record.

As you know, the overall paperwork burden is significant. According to our estimates, in tax year 2002, the total burden of individual taxpayers was almost 26 hours per return filed, for a total of 3.3 billion hours. Similarly, the out of pocket taxpayer cost was estimated at $157 per return, or about $20 billion.

I would like to point out that these numbers reflect an initial roll-up of data from a new, more accurate and comprehensive method of measuring taxpayer burden, which we have been working with Treasury and OMB to implement. The new estimate of burden is somewhat higher than that of the old model, especially for self-employed individuals.

Our Office of Taxpayer Burden Reduction has aggressively pursued burden reduction initiatives. Since the Office was launched in 2002, we have reduced burden by over 100 million hours. Here are some accomplishments. We are expanding the use of the standard mileage rate for taxpayers with multiple vehicles used for business purposes, reducing recordkeeping burden by an estimated 8 to 10 million hours.

Mr. Chairman, you've noted yourself that this reduction in tax recordkeeping is a step in the right direction. We've redesigned forms 1040 and 1040A, reducing burden by almost 12 million hours, and most importantly, we've also helped more taxpayers go online to file returns, pay taxes and to communicate with us electronically. E-filing requires less paper, is more accurate and the computer program catches many mistakes that would have been made on paper. It also makes it easier for the IRS to solve taxpayer problems. Refunds come back in half the time.

Mr. OSE. Mr. Everson, hold on. Dr. Graham, is your mic on? Please proceed.

Mr. EVERSON. Perhaps the clearest sign that e-filing is working is that the number of e-filers is rising rapidly. It's up 15 percent so far this year compared to a year ago, and, for the first time, cor-

porations and tax-exempt organizations are now able to file annual tax returns electronically.

By next year, even the largest corporations will be able to avoid delivering literally box loads of paper documents to our doorstep. That is true paperwork reduction.

We have more projects in store for next year. These include annualization of quarterly employment tax returns, extension of time to file returns to make all extensions uniform and automatic, and redesigning the quarterly employment tax return and Schedules K–1. In my view, we also need to look at a broader effort to simplify form 1040. We have made this progress despite the growing complexity of the Code. As you know, the total number of pages in the Tax Code regulations and IRS rulings has grown from approximately 20,000 pages to 60,000 over the last 3 decades. Frequent changes to the Code and rising complexity are perhaps the greatest obstacles to reducing paperwork burden. I am concerned that tax law complexity may discourage taxpayers and adversely impact voluntary self-assessment that is at the heart of our tax system.

Over the long term, simplification of the Tax Code is the best way to reduce burden.

Thank you for inviting me here today, and I'm happy to take your questions.

[The prepared statement of Mr. Everson follows:]

WRITTEN STATEMENT OF
MARK W. EVERSON
COMMISSIONER OF INTERNAL REVENUE
BEFORE THE COMMITTEE ON GOVERNMENT REFORM
SUBCOMMITTEE ON
ENERGY POLICY, NATURAL RESOURCES,
AND REGULATORY AFFAIRS
UNITED STATES HOUSE OF REPRESENTATIVES
HEARING ON
PAPERWORK BURDEN REDUCTION
APRIL 20, 2004

INTRODUCTION

Mr. Chairman and honorable Members of the Subcommittee, thank you for the opportunity to testify on the Internal Revenue Service's continuing efforts to reduce unnecessary taxpayer burden.

Our goal at the IRS is to impose the least amount of burden necessary for taxpayers to meet their tax law responsibilities.

IRS and Treasury have recently developed a new model for measuring the burden on taxpayers of complying with the individual income tax. The new model will replace the two decades old A.D. Little model that is currently used. The new model will be superior to the A. D. Little model in several respects.

- It is based on updated surveys of taxpayer behavior conducted in 2000 and 2001.
- It is more comprehensive in that it measures not just form completion but record keeping and other necessary tasks of tax compliance more explicitly.
- It is conceptually better because it attempts to measure the compliance burden for each taxpayer as a whole rather than by each separate, paper tax form. This approach reflects the underlying changes to more electronic recordkeeping and tax form preparation in which the burden from each separate piece of paper is not meaningful.
- It is more flexible in that it calculates both out-of-pocket and time burdens; calculates burden by type of taxpayer (such as for W&I and SB/SE taxpayers or by income); and it permits differential burden estimates for taxpayers according to their preparation method: self-prepare by hand, with software, or with paid preparers;
- Importantly, the new model permits IRS to perform "what-if" simulations to determine the effect of tax administration proposals and legislative changes.

Although we are still in the process of refining and validating the "what-if" functions of the new model, we are excited about the capabilities that this model will offer.

Estimates from this model indicate the total burden of individual taxpayers (those filing Forms 1040, 1040A, 1040EZ) in Tax Year 2002 was almost 26 hours per return filed, or a total of 3.3 billion hours. Similarly, the out-of-pocket taxpayer cost was estimated at $157 per return filed, or a total of $20.3 billion. We are working to reduce this burden even though our continuing implementation of complex legislative changes, many of which provide benefits to taxpayers, has complicated our task.

I would point out that these estimates are somewhat higher than what the A.D. Little model shows, with just about all of the aggregate burden difference associated with self-employed (i.e., SB/SE) individuals. In 2002, about one-fourth of all returns were filed by self-employed taxpayers. Our model found that these taxpayers accounted for about 60% of both time and out-of-pocket costs (58% of time burden and 61% of costs). The reliance on paid professionals and technology continued with 56% of all returns prepared by paid professionals and 16% by taxpayers using software.

Aggregate taxpayer burden is expected to continue to grow in the future. Part of this increase is systemic, that is, it results simply when more people file tax returns each year. For example, in both 2001 and 2002, the number of returns filed increased by about one million and total individual taxpayer burden increased almost one percent each of those years.

IRS is committed to reducing taxpayer burden and established the Office of Taxpayer Burden Reduction (OTBR) in January 2002 to lead its efforts. Since its inception, OTBR has aggressively pursued burden reduction initiatives and enabled the IRS to reduce taxpayer burden by over 100 million hours. We must be doing something right, because OMB referred the Federal Energy Regulatory Commission (FERC) to OTBR as an example of a burden reduction best practice in Government.

Since last year's hearing, we have made progress in a number of areas:

- We expanded the use of the standard mileage rate for taxpayers with multiple vehicles used for business purposes, dramatically reducing record keeping burden by an estimated 8-10 million hours.

- We continued to expand the options available to taxpayers and their representatives to file returns, pay taxes, and to communicate with us electronically. The American Customer Satisfaction Index (ACSI) shows customer satisfaction scores for IRS e-file exceed those for both the Government and retail sectors.

- Our Modernized e-file project encompasses the design, development, and implementation of a new information technology architecture and infrastructure improving the timeliness, consistency, and reliability of information associated with the rapid processing of returns. This system makes it easier to file, and provides the IRS with the information necessary to facilitate the resolution of taxpayer problems. Also for the first time, corporations and tax-exempt

organizations have the ability to file annual tax returns electronically over the Internet

- Our public-private partnership agreement with the tax software industry continues to bear fruit with the growing Free File program. Over 3.2 million taxpayers have taken advantage of free, on-line tax preparation and e-filing through April 14, 2004. This represents an increase of 19% from last year.

We have more projects to reduce burden in store for next year. For example:

- We have simplified the 2004 Schedule D, Form 1040, and

- For Tax Year 2004, we are deleting 7 lines from each of 19 general business credit forms.

I will describe each of these in further detail below.

Clearly, we have made progress in addressing unnecessary taxpayer burden, but it remains a formidable challenge, especially when viewed within the context of an extremely complex and ever-changing Internal Revenue Code. The growing complexity of the tax law is illustrated by the oft-cited fact that the number of pages in the CCH Standard Federal Tax Reporter, which includes the Code, Treasury Regulations, and IRS rulings, was 19,500 in 1974 but has more than tripled, to 60,044 in 2004.

Since last year, when Acting Commissioner Wenzel testified before the Subcommittee, several legislative changes have been enacted that affect taxpayers' reporting burden. Although some provisions provide a tax benefit, taxpayer burden will increase due to the need to add more lines to the individual tax return.

The IRS has implemented the new provisions contained in the Jobs and Growth Tax Relief Reconciliation Act, which provided benefits to American taxpayers by setting lower tax rates for investment income. These benefits are substantial, but generated an estimated 113.9 million additional hours of burden, based on the A.D. Little burden methodology. (We have not completed validation of estimated changes from recent legislation based on the new burden model.) We anticipate, however, that burden will decrease significantly next year, when taxpayers will not need to apply different tax rates to their investment income based on the date the income was received. The increased burden this year was due to necessary revisions to several tax forms, including Form 1099-DIV, Dividends and Distributions; Form 1099-B, Proceeds from Broker and Barter Exchange Transactions; Form 1041, U.S. Income Tax Return for Estates and Trusts; Form 1065, U.S. Return of Partnership Income; Form 1120S, U.S. Income Tax Return for an S Corporation; Form 2220, Underpayment of Estimated Tax by Corporations; and Form 4797, Sale of Business Property.

We are also in the process of implementing provisions from other legislation enacted in 2003, including the Military Family Tax Relief Act; the Service members Civil Relief Act; and the Medicare Prescription Drug, Improvement, and Modernization Act. We

must add two new lines to the individual income tax return to allow taxpayers to claim the above-the-line deduction for armed forces reservists and the new deduction for Health Savings Accounts. To implement these and other provisions enacted in 2003, we will make 154 changes to tax forms, instructions, and publications. There are further changes due to legislative provisions enacted prior to 2003 that affect returns filed in 2004 and beyond. Taxpayers will need to be aware of the changes, determine if they apply to them, and understand what they must do to comply with the changes.

In addition to the burden hours for completing new lines added to tax returns to accommodate new legislative provisions, taxpayer burden is increased by the complexity of the tax law. Frequent changes to the Code and complexity of the tax law are perhaps the greatest obstacles to overcome as we work to reduce unnecessary taxpayer burden. Our tax system relies on voluntary self-assessment of tax liability by taxpayers. Increasing complexity hinders the ability of the average American citizen to assess his or her own tax liability, and may serve as a disincentive for taxpayers to comply with their tax obligations. As I have noted many times before, our working equation at the IRS is "Service *plus* Enforcement *equals* Compliance." The increasingly complex tax laws hinder our ability to provide American taxpayers with the service they deserve.

At last year's hearing, the General Accounting Office (GAO) noted that legislation simplifying the Internal Revenue Code could probably do more to simplify IRS's paperwork burden requirement than any other action. GAO also noted that redesigning processes to promote electronic filing would be an improvement.

THRESHOLD REVIEW INITIATIVE

In the Subcommittee's invitation letter, you asked us to provide you with an update of our comprehensive review of the law and regulations in an effort to identify thresholds that are within the Commissioner's discretion to change in order to reduce paperwork burden.

The results from this review, however, revealed that the vast majority of thresholds are statutory in nature and, thus, not within our discretion to change.

Based on these findings, we have shifted to a bottom up approach to identifying actionable thresholds -- those in which the Commissioner has delegated authority to change, *e.g.*, changes to forms and instructions, publications, revenue procedures, and regulations.

In using this approach, we continue to identify thresholds, some of which appear to have the potential for significant taxpayer burden reduction. As thresholds or the opportunities to establish new thresholds are identified, we perform preliminary research and analyses to determine the effect on compliance, if any, and whether the potential for revenue slippage is within tolerable limits, before moving forward with an initiative. The determination to proceed is based, largely, on how much slippage the Service is willing to accept as a trade off for reducing taxpayer burden, and frequently, at the same time, reducing internal processing costs. Some thresholds are inherently revenue associated, not merely for slippage but because they affect the tax, per se.

Following are some examples, currently under review by OTBR, of thresholds we have identified that could be changed, or newly established, through exercise of discretionary authority:

- In its report dated May 20, 2003, *"PROJECT ASPIRE" EO DETERMINATIONS PROCESS REVIEW PROJECT GROUP*, pages 31-32, the Advisory Committee on Tax Exempt and Government Entities (ACT) discusses the possibility of an increase in the filing threshold for Form 1023, Application for Exemption, established in Section 508 (c)(1)(B). Conforming the Form 1023 filing threshold to the Form 990, Return of Organization Exempt From Income Tax, filing threshold (currently $25,000 in gross receipts) could eliminate confusion, enhance consistency in Exempt Organization (EO) filing requirements, and free up determination specialists for more consequential application review. However, any such increase in the threshold would have to be considered very carefully in light of the importance of ensuring that the requirements of section 501(c)(3) are met.

- Form 1040EZ and 1040A – Income Thresholds: Preliminary research provided by Tax Forms and Publications suggests that increasing the threshold for filing Form 1040EZ and 1040A from $50,000 to $100,000 of taxable income has the potential to reduce burden for newly-eligible users who self-prepare their returns without software. However, the six additional pages of tax tables that would be required to accommodate the newly-eligible taxpayers would increase the apparent complexity for millions of current users. To date, the decision has been to retain the current taxable income limits, but that is re-evaluated annually based on a balancing of the benefits for the estimated number of additional users against the increased burdens for current users.

- Cost of Materials – Install New Threshold for allowable Expensing vs. Capitalization: Reg. 1.162-3 provides that taxpayers carrying materials on hand should expense only materials actually consumed. If no record of consumption is kept, taxpayers may expense these amounts, but only if taxable income is clearly reflected by this method. A threshold here would remove much of the doubt.

- Repairs – Install New Threshold for Allowable Repairs Expense vs. Capitalization: Reg. 1.162-4 provides that the cost of incidental repairs which neither materially add to the value of the property nor appreciably prolong its life, but keep it in an ordinarily efficient operating condition may be deducted as an expense, provided the cost of acquisition or production or the gain or loss basis of the taxpayer's plant, equipment, or other property, as the case may be, is not increased by the amount of such expenditures. Repairs in the nature of replacements, to the extent that they arrest deterioration and appreciably prolong the life of the property, shall either be capitalized and depreciated in accordance with Section 167 or charged against the depreciation reserve if such an account is kept. A threshold here would provide a much needed bright line test.

REDUCING BURDEN BY SIMPLIFYING FORMS, INSTRUCTIONS, PUBLICATIONS, AND NOTICES

Reduced and Increased Burden on Individual Income Tax Returns

We made changes to the 2003 Forms 1040 and 1040A and their instructions and schedules that reduced estimated burden by almost 12 million hours, based on the A.D. Little burden methodology. This included changing the Schedule SE, Self-Employment Tax, to allow taxpayers to skip lines on the form if they are only liable for the Medicare portion of the self-employment tax. However, the burden on Forms 1040 and 1040A was estimated to increase by over 28 million hours to implement tax legislation, the Jobs and Growth Tax Relief Reconciliation Act of 2003. This Act provided significant benefits to individuals and businesses, despite the net increase of 16 million burden hours. (Estimates based on A.D. Little methodology.)

Consolidation of Publications Relating to Tax Benefits for Education

Last year, we reported that we were planning to consolidate the tax information publications about tax benefits for education into one product. We have made obsolete Publication 508, *Tax Benefits for Work-Related Expenses*, and Publication 520, *Scholarships and Fellowships*. The information in these publications has been added to Publication 970, *Tax Benefits for Education*. Taxpayers and tax practitioners now have one primary source for information in this area of tax benefits. About 500,000 copies of these publications were distributed in 2002.

Publication 17 Redesign

We also reported last year that we would use feedback from focus groups to identify ways to improve Publication 17, *Your Federal Income Tax*. This publication is a comprehensive tax guide for individuals. Focus group results showed that taxpayers wanted a better way to find the information they need in the publication. Working with a consultant, we redesigned and expanded the index to the publication to make it easier for taxpayers to find the information on the topics they wanted. Based on other feedback, we also redesigned the introduction to the publication to help taxpayers understand how to use it. Other improvements include:

- New bubble art of Form 1040 and Schedule A, Itemized Deductions, guiding taxpayers to page references where various topics are explained;
- New chapter explaining education-related adjustments to income;
- A table listing items in the introduction of Part Four, Adjustments to Income, to make them easier to read and to find;
- A list of addresses to which taxpayers need to mail various IRS forms;
- A table listing and explaining the icons used throughout the publication to highlight important information; and
- An expanded section identifying important changes and reminders.

Form 8855

We have also developed a new Form 8855, *Election to Treat a Qualified Revocable Trust as Part of an Estate*, for executors and trustees. With this form, taxpayers have a format to follow and can be sure to include all the necessary election information prescribed by the regulations. An official IRS form is easier for taxpayers to use than a self-prepared statement and enhances compliance. It will also allow the IRS to more accurately process elections, thus minimizing the need for IRS employees to contact taxpayers in order to resolve questions arising from such elections.

Notice Redesign Activities

Ten redesigned notices advising taxpayers of adjustments to their accounts were implemented between July 2003 and January 2004. During Calendar Year 2003, over ten million of these types of notices were issued. The redesigned notices are:

- CP-21A – Data Processing Adjustment Notice, Balance Due of $5 or More;
- CP-21B – Data Processing Adjustment Notice, Overpayment of $5 or More;
- CP-21C – Data Processing Adjustment Notice Less Than $5, Overpayment Less Than $1;
- CP-21E – Examination Adjustment Notice;
- CP-22A – Data Processing Adjustment Notice, Balance Due of $5 or More;
- CP-22E – Examination Adjustment Notice;
- CP-101 – Math error on Form 940 or 940EZ resulting in a net balance due;
- CP-102 – Math error on Form 941, 942, 943 or 945 resulting in a net balance due;
- CP-112 – Math error on Form 941, 942 or 943 resulting in a net overpayment; and
- CP-128 – Notification of the remaining balance due on a tax period after an offset.

Additional redesign projects are underway to rewrite notices to taxpayers in "plain English" and to reduce taxpayer burden relating to contacts from the IRS. Scheduled for implementation between now and January 2005 are redesigned:

- Letters 105C and 106C, with a volume of almost 500,000;
- CP71 series (reminder notices), with a volume of almost 5 million; and
- CP2000 (underreported income), with a volume of almost 2.1 million.

Paperwork Burden Reduction Plans for Next Year

Schedule D

We simplified the 2004 Schedule D, Form 1040 by eliminating Part IV, *Tax Computation Using Maximum Capital Gains Rates*. Instead, taxpayers will use the *Qualified Dividends and Capital Gain Tax Worksheet*. Previously, only taxpayers who were not required to file Schedule D used this worksheet. In focus group tests, taxpayers preferred the format of the worksheet to Part IV. Although this change does not result in quantifiable burden reduction under our current method of measuring burden, we are responding to customer preferences. The implementation of the 2003 tax law changes (eliminating the special treatment of 5-year gains and the pre-May 6, 2003, capital gain tax rates) will also result in burden reduction. In 2003, the reporting burden on Schedule D was 123.8 million hours. For 2004, the reporting burden is estimated at 109 million hours, or 14.8 million fewer hours, based on the A.D. Little burden methodology.

Business Credit Forms

For Tax Year 2004, we are deleting 7 lines from each of 19 general business credit forms (for a total reduction of 133 lines) by replacing 8 separate lines for tax credits with a single line. According to the A.D. Little burden methodology, these changes will reduce taxpayer-reporting burden by almost 3 million hours in tax year 2004. The affected forms are:

- Form 3468, Investment Credit;
- Form 3800, General Business Credit;
- Form 5884, Work Opportunity Credit;
- Form 6478, Credit for Alcohol Used as Fuel;
- Form 6765, Credit for Increasing Research Activities;
- Form 8586, Low Income Housing Credit;
- Form 8820, Orphan Drug Credit;
- Form 8826, Disabled Access Credit;
- Form 8830, Enhanced Oil Recovery Credit;
- Form 8835, Renewable Electricity Production Credit;
- Form 8844, Empowerment Zone and Renewal Community Employment Credit;
- Form 8845, Indian Employment Credit;
- Form 8846, Credit for Employer Social Security and Medicare Taxes Paid on Certain Employee Tips;
- Form 8847, Credit for Contributions to Selected Community Development Corporations;
- Form 8861, Welfare-to-Work Credit;
- Form 8874, New Markets Credit;
- Form 8881, Credit for Small Employer Pension Plan Startup Costs;

- Form 8882, Credit for Employer-Provided Childcare Facilities and Services; and
- Form 8884, New York Liberty Zone Business Employee Credit.

Form 941 Redesign

Last year, we reported on the status of our redesign of Form 941, Employer's Quarterly Federal Tax Return, filed by approximately 6.6 million small business taxpayers. Since then, we have met with representatives from the payroll community, such as the American Payroll Association, to discuss the new form and have used their feedback to make additional modifications. Taxpayer cognitive testing is planned for this spring. The redesigned form and its plain-language instructions will first be used for the March 31, 2005, quarter. An extensive communications plan has been developed to ensure taxpayers and practitioners make a smooth transition to the new form.

In a separate, but related, project, we are designing a new form for employers to reconcile wage and tax information for employees involved in mergers and other acquisitions. We initiated this project upon a request from employers and tax practitioners through the Industry Issue Resolution program discussed below.

Schedule K-1 Redesign

Plans are proceeding on schedule for implementation of the redesigned Schedules K-1, which are used to report income, deductions, and credits from pass-through entities. Beginning with Tax Year 2004, taxpayers will see a new, streamlined look to the Schedules K-1 for Form 1065, U.S. Return of Partnership Income; Form 1120S, U.S. Income Tax Return for an S Corporation; and Form 8865, Return of U.S. Persons with Respect to Certain Foreign Partnerships. This spring we are conducting focus group testing and this fall IRS will engage in outreach activities to familiarize investors and practitioners with the new format.

Over 23 million taxpayers receive Schedule K-1 (Forms 1065, 1120S, and 1041). The simplified Schedules K-1 will reduce taxpayer burden by improving taxpayer comprehension, resulting in fewer pre-filing preparation errors and fewer unnecessary post-filing notices, including those generated by the K-1 matching program.

REDUCING TAXPAYER BURDEN BY STREAMLINING POLICIES, PROCESSES, AND PROCEDURES

Extensions to File Process

We are currently working on an initiative to simplify applications for extensions of time to file a return. This process has become complicated over the years as new forms and new requirements have been added. The current procedure allows corporate taxpayers to use one standard form to request a one-time automatic six-month extension. All other

entities and individuals must select from an array of ten different forms to request an initial, or an additional, extension.

The overall goal of the Extension Initiative is to lessen the burden associated with applying for an extension and to create efficiency in processing extension requests. We are considering regulatory changes to create a single six-month extension period for non-corporate taxpayers; designing simplified and consolidated extension forms; and proposing centralized submissions processing of the extension applications. Although there is significant work to be done on this initiative, we are hopeful that it will result in meaningful burden reduction for approximately 15 million taxpayers.

S Corporation Election Process

We currently are evaluating the viability of amending portions of section 1362 of the Internal Revenue Code to allow a less burdensome process for a corporate taxpayer seeking to be taxed as an S corporation. Under section 1362(a) of the Code, a small business corporation may elect to be treated as an S Corporation for tax purposes, if all shareholders consent to the election on the day the election is made. The process for small business corporations to elect treatment as an S corporation was identified as one of the most difficult processes for taxpayers to comply with. It requires adherence to rigid rules including sequential submission of at least two other forms prior to the filing of the tax return. A statutory change to the election process could result in significant taxpayer burden reduction benefits.

The Industry Issue Resolution Program

The IRS created the Industry Issue Resolution (IIR) program more than three years ago as an initiative under our Large and Mid-Size Business Operating Division's Issue Management Strategy, and it continues to produce burden reduction results for business taxpayers. Taxpayers, industry associations, and other interested parties are encouraged to submit business tax issues for possible resolution through published or administrative guidance through the IIR program. The goal is to resolve tax issues that are common to a significant number of business taxpayers by providing targeted guidance on specific tax issues. For each issue selected, an IIR team including IRS and Treasury personnel gathers relevant facts from taxpayers or other interested parties and recommends guidance to resolve the issue. Under the program, the IRS has issued guidance that has reduced costs, burden, and uncertainty for taxpayers. Since its inception, eleven IIR projects have been completed, and since the last hearing, Revenue Procedures have been issued concerning the following:

- Clarification of the depreciation of gasoline station pump canopies (published in Revenue Ruling 2003-54);
- A safe harbor method for depreciating certain fiber cable used in cable television distribution systems as a unit of property (published in Revenue Procedure 2003-63); and

- Guidance on the computation of total recoverable units for purposes of computing cost depletion under Section 611 of the Internal Revenue Code (published in Revenue Procedure (2004-19).

There are currently eight open IIR projects targeted for completion in Fiscal Year 2004:

- Tax treatment of pre-production costs of creative property;
- Definition of highway tractors subject to the heavy truck tax under Code section 4051;
- Deduction and capitalization of costs incurred by utilities for assets used for power generation;
- Application of Code section 382 to U.S. Branches of Acquired International Banks;
- Tax treatment of health care provider incentive payments;
- Tax treatment of vendor allowances involving build-outs and image upgrades
- Guidance under Code section 4051(a)(2) and (3) regarding "Suitable for Use"; and
- Reporting Employment Taxes in Context of Mergers, Consolidations, etc.

The next IIR project selections will be identified from issues submitted to the IRS by March 31, 2004.

Electronic Tax Administration (ETA)

The IRS Restructuring and Reform Act of 1998 mandated that the IRS have as a goal that at least 80 percent of all Federal tax and information returns be filed electronically by 2007. Electronic filing's benefits are clear and compelling. Taxpayers find it more convenient and economical and less time-consuming to do business electronically than sending paper through the mail. Other benefits of electronic filing include reduced preparation time, faster refunds, increased accuracy of returns, and acknowledgement of receipt of the e-filed return.

Currently, taxpayers who transmit their 1040 tax returns electronically give high marks to the IRS's electronic filing programs. The American Customer Satisfaction Index (ACSI) shows customer satisfaction scores for IRS e-file exceed the averages for both the Government and retail sectors and rival those of the financial services sector. For electronic tax return filers, the overall ACSI rating is 74%. This surpasses the rating among paper return filers and the Government-wide satisfaction rating of 68.6%. Customer satisfaction and burden reduction initiatives are fundamental to the IRS's continued efforts to maintain taxpayer trust and compliance. The present e-filing system has demonstrated measurable success with regard to individual taxpayer satisfaction.

From its modest beginning as a pilot program in 1986, when 25,000 returns were filed electronically, the number of e-filed returns has dramatically increased, with more than 53 million returns filed electronically last year. In 2004, IRS expects about 60 million taxpayers to take advantage of the many benefits of electronic filing. These include:

- Faster refunds: Direct deposit can speed refunds to e-filers in about two weeks or less. During 2003, 44,422,000 refunds were direct deposited, up from 39,744,000 during 2002, an increase of almost 12 percent. The average direct deposit refund in 2003 was $2,362, totaling $104.9 billion, up 12.2 percent over the prior year. We expect this year's direct deposit numbers to be about 10% higher than last year's.

- More accurate returns: E-filed returns are automatically checked for errors or missing information. Processing is more accurate and the likelihood that a taxpayer might receive an error letter from the IRS is reduced.

- Quick electronic confirmation: E-filers receive an acknowledgement that we have received their returns.

- Electronic signatures: Taxpayers and their tax preparers can create a Personal Identification Number (PIN) and file a completely paperless return. Those who take advantage of this option do not mail anything to the IRS. Last year taxpayers filed 11 million returns that were signed using a PIN, up 12% from the previous year. Also, 24.2 million taxpayers e-filed through a paid preparer and used self-select PIN or a practitioner PIN, up 41%.

- Free Internet Filing: Now in its second year, Free File allows millions of taxpayers to prepare and file their Federal tax returns on-line for free. The program is a partnership between the IRS and an alliance of tax software companies that offers free on-line tax return preparation and e-filing services to at least 60% of the nation's 130 million taxpayers. Free File, which was used by 2.8 million taxpayers last year, was principally designed to advance and increase e-filing receipts and assist taxpayers, particularly in underserved and disadvantaged communities. (At this point our volume of Free File returns is more than 20% higher than last year.) While each of the 16 companies participating in the program sets its own qualifying criteria for its free services, the majority of the offerings are designed to serve lower-income individuals or families who claim the earned income tax credit. Others are based on the taxpayer's age, military service, or state residency.

- Easy payment options: E-filers with a balance due can file early and schedule a safe and convenient electronic funds withdrawal from their bank account, or pay with a credit card by April 15th. More than 1.2 million people paid their Federal taxes by electronic funds withdrawal or credit card during 2003, up from 750,000 in the prior year, a 60 percent increase.

- Federal/State e-filing: Taxpayers in 37 states and the District of Columbia can e-file their Federal and state tax returns in one transmission to the IRS. The IRS forwards the state data to the appropriate state agency. In 2003, more than 22.7 million taxpayers filed Federal-state electronic returns.

- Extension of Time to File by Phone: Anyone who filed a return last year can use the telephone to request an automatic extension of time, to August 16, 2004, to file his or her tax return. Telephone filers get a confirmation number at the end of their call, telling them that their extension request has been accepted.

- Federal/State TeleFile: In 2003, 345,422 taxpayers filed their Federal and state tax returns with a single phone call, up 16 percent over the prior year. Taxpayers in seven states can e-file their return by phone.

Taking the Paper Out of Business Taxpayer Burden in 2004

The IRS has taken steps to decrease the burden of business taxpayers by introducing a variety of electronic services that will ease both information reporting and payment of taxes. Businesses file annual income tax returns but are also required to file various employment tax returns and information returns. They must also make periodic payments to the Federal Government, such as income tax withheld from employees' earnings and unemployment taxes. In fact, payments are a business's most frequent transaction with the IRS. We plan to convert all of these transactions to fast, accurate, paper-free electronic methods, and we are making progress on a number of fronts.

During FY 2003, over 4.4 million taxpayers made $1.55 trillion in electronic tax payments through the Electronic Federal Tax Payment System (EFTPS), which now includes an online option. For 2004, IRS expects more than 4.5 million taxpayers to pay their taxes using the EFTPS System.

In FY 2003, IRS received more than 2.7 million Form 941 (Employer's Quarterly Federal Tax Return) e-file program returns and 840,000 returns for Form 941 TeleFile and On-Line Filing Programs. In FY 2003, 350,767 businesses used the Form 940 (Employer's Annual Federal Unemployment Tax Return) e-file program, and more than 49,115 partnerships chose to e-file Form 1065 (U.S. Return of Partnership Income) in FY 2003.

IRS is also delivering several applications that provide tangible benefits to taxpayers and improve the efficiency and effectiveness of our tax administration system. They include:

Employment Tax E-File System

The Employment Tax E-File System offers an improved way for current Form 940 and 941 e-file and On-Line Filing Partners to file returns with the IRS, and for the first time, Electronic Return Originators (EROs) have the ability to offer electronic employment tax filing for their clients. The Employment Tax E-file System will provide more filing options, flexible filing, faster acknowledgements, an integrated payment option, a completely electronic signature process, and a Federal-state filing component, all of which will result in reduced burden for the tax preparation community and the taxpayers they represent.

E-Services

E-Services is a suite of Internet based products that allows tax professionals and payers to do business with the IRS electronically. These services include preparer tax identification number (PTIN) applications with instant delivery, individual TIN matching for third party payers, on-line registration for electronic E-Services, and on-line initiation of the electronic return originator application. In addition, IRS will be offering incentives to those tax professionals and payers that e-file 100 individual returns or more, such as on-line disclosure authorization, electronic account resolution, and transcript delivery system.

Modernized E-File System (MeF)

On February 20, 2004, IRS launched the modernized e-file program. This new electronic filing program, developed and delivered through the IRS Business Systems Modernization program, gives corporations and tax-exempt organizations the ability to file annual tax returns electronically over the Internet. For the first time, electronic filing is available to corporations filing their corporate income tax returns, Form 1120 & 1120S, and charitable organizations filing their annual Form 990, along with related forms and schedules. These forms are the first to be filed through a modernized e-file program that uses a secure Internet connection instead of a modem to transmit tax return data. Corporations filed more than 5.7 million Forms 1120 and charitable organizations filed 748,000 Forms 990 last year. Through the week of April 11, 2004, IRS has accepted 25,822 returns under this new system.

Corporations

The IRS is implementing MeF for business returns in two phases. The first phase was released in February 2004, with 53 forms and schedules made available for electronic filing. The second phase will roll out in July 2004, adding another 43 forms. We estimate that 95% of corporations will be able to file electronically.

Tax and information filers, and the IRS, will spend less time completing transactions. MeF proposes to decrease the burden on taxpayers by reducing preparation time, including time associated with copying, assembling, sending filings to the IRS, and storing filings, and by eliminating postage costs and delivery time. These burdens are compounded for businesses where tax returns are more complex and can require numerous attachments and schedules. Customers with multi-state filings must complete this process for each state in which they do business. The system will provide a single standard for filing electronic tax returns and allow transmitters to submit multiple return types within the same transmission. MeF will decrease third party transaction costs, improve the maintenance of taxpayer accounts, and facilitate more cost-effective resolution of compliance issues. It will also expedite income verification for purposes of disaster loans, grants, mortgage, and educational loans.

Charitable Organizations

More than 748,000 nonprofit organizations will enjoy the benefits of burden reduction through the IRS's implementation of MeF for Forms 990. MeF will also effectively address the problem of rejected returns. Approximately 40% of exempt organizations' returns were rejected due to oversight, such as omission of required schedules, incorrect name or identification numbers, missing signatures, and mathematical errors. While IRS personnel were able to correct many of these errors, just as many result in the issuance of correspondence to the filer. This creates significant delays in the processing of these returns. E-filing will reduce many of the steps associated with IRS Service Center paper processing, including mail handling, editing, data entry, and error resolution. From the taxpayers' perspective, it will reduce taxpayer correspondence, mail handling, time spent trying to resolve errors and recordkeeping.

The Form 990 series of returns is unique because each is a multi-jurisdictional form used by both the IRS and state regulators. The current plans for Modernized e-File are to enable single point filing to meet both Federal and state filing requirements. This capability will save state tax resources and eliminate duplicative filings by the taxpayer.

Express Enrollment for New Businesses

The IRS and the Treasury Department's Financial Management Service launched a new program in January 2004 called Express Enrollment for New Businesses. Express Enrollment was developed to encourage new businesses to use the Electronic Federal Tax Payment System (EFTPS), which is an efficient and cost-saving method for paying all Federal taxes. All businesses receiving a new Employer Identification Number (EIN) and that have a Federal tax obligation will be automatically enrolled in EFTPS to make all of their Federal Tax Deposits. When they receive their EIN, they will also receive a separate mailing containing an EFTPS PIN and instructions for activating their enrollment. They can choose the Government's free electronic payment program rather than using paper Federal Tax Deposit coupons. Plus, Express Enrollment expedites the enrollment process, allowing the business taxpayer an opportunity to make payments as soon as its enrollment is activated.

Federal Tax Deposit/Electronic Federal Tax Payment System Penalty Abatement Program

Another new program launched in 2004 is the Federal Tax Deposit/Electronic Federal Tax Payment System Penalty Abatement Program. This is an incentive for taxpayers to enroll in EFTPS and make timely deposits, and involves a one-time refund of a Federal Tax Deposit Penalty for any business that has been assessed a late deposit penalty. To claim the one-time refund of a late deposit penalty, the business must enroll in EFTPS and use it successfully for four consecutive quarters (one year). After successfully using EFTPS for one year to timely deposit all Form 941 taxes, IRS will automatically remove the assessed penalty and refund it if no other taxes are owed.

Future Electronic Initiatives

In the next couple of years, IRS will be offering additional incentives to taxpayers to file their returns electronically. These initiatives will both reduce taxpayer burden and help the IRS to achieve its goal that 80% of returns be filed electronically. These incentives include:

- Internet Refund Fact of Filing (IRFOF) Expansion. This will provide the capability to initiate refund trace options for lost/stolen refunds, make address changes, and provide telephone numbers to update IDRS and receive explanations of the 40 most common math error situations.

- Internet Employer Identification Number (EIN), Phase 2. This initiative would fully automate the current internal EIN processing. Phase 2 functionality will include full validation against information housed in IRS databases and will result in a same session, valid EIN. The entity will be immediately established on IRS systems and the transaction will be accomplished without IRS employee intervention.

- Expanded E-Services for Reporting Agents. We will provide access to current E-Services (Transcript Delivery System, Disclosure Authorization, and Electronic Account Resolution) to Reporting Agents who meet required criteria we establish for the incentive program.

- Corporate Returns, Forms 1120/1120S MeF Release 2. This will expand the electronic filing and processing capabilities of Corporate Tax Returns.

- Exempt Organization Returns, Form 990. We will expand the electronic filing and processing capabilities of Forms 990, 990EZ, and 1120POL.

REDUCING BURDEN BY SUPPORTING LESS BURDENSOME RULINGS, REGULATIONS, AND LAWS

Standard Mileage Rate

To reduce recordkeeping burden, IRS expanded the use of the standard mileage rate for taxpayers with multiple vehicles. Starting in 2004, the standard mileage rate may be used for up to four vehicles in the taxpayer's business. Previously, those businesses owning more than one vehicle for use in their business could not use the standard rate at all, leaving them to track the actual expenses for each vehicle. With this change, more than 800,000 businesses will become eligible to use the standard mileage rate, saving 8-10 million hours in recordkeeping burden.

You noted, yourself, Mr. Chairman, that "This reduction in tax recordkeeping is a step in the right direction." Representative Manzullo and Senator Collins, Chairs of the House and Senate Small Business Committees, respectively, applauded this change.

Revenue Procedure 2003-76 contains additional information on the standard mileage rates.

Annualization of Form 941

The IRS, working with the Social Security Administration, the Treasury Department, and the Commerce Department's Bureau of the Census, is studying a proposal that would allow taxpayers to file an annual Employer's Federal Income Tax return filing option. By extending this option to taxpayers who have demonstrated compliant behavior in filing returns and payment of taxes for at least eight quarters, and who owe less than $2,500 per quarter in tax liability, the initiative could affect approximately 691,000 small business taxpayers. Under this proposal, this group of taxpayers will be allowed to file an annual return each year, saving approximately 2 million hours in return preparation time. This group will still be required to make quarterly deposits via the EFTPS. Form 941, "Employer's Quarterly Federal Income Tax Return" would continue to be required for all other employers. We have just begun study of this proposal. If the IRS develops the capacity to implement this plan, there is potential for decreasing the burden imposed on compliant, small employers.

Support of Government-Wide Paperwork Burden Reduction

IRS has been supportive of all Government-wide efforts to reduce the regulatory and paperwork burden imposed on our customers, including aggressively addressing the requirements of the Small Business Paperwork Relief Act (SBPRA) of 2002. IRS is well represented on the SBPRA task groups addressing Government-wide burden, making it easier for small businesses to understand their regulatory requirements, identifying ways to integrate and consolidate data, and making recommendations to improve the electronic collection and dissemination of data collected under Federal requirements. As the 2002 SBPRA Task Force recommended, the IRS is working with the Business Gateway E-Government Initiative to make it easier for businesses to interact with the Federal government and help to reduce burden through data harmonization and forms consolidation. In addition, periodic meetings are held with SBA and OMB to discuss burden reduction efforts and to identify partnering opportunities.

The SBPRA required publication of a Government-wide inventory of resources available to help taxpayers comply with Government regulations, known as compliance assistance resources. Taxpayers, particularly small business taxpayers, have indicated that determining what regulations apply to them is the initial hurdle to their ability to comply with those regulations.

To inform and educate taxpayers about their tax law responsibilities, IRS offers a wide array of compliance assistance resources that are available through a variety of channels. Such resources include face-to-face tax help at Taxpayer Assistance Centers; Toll-Free

Telephone Assistance and Tax Information; Websites/Internet; Workshops, Training Sessions and Seminars; and products developed for specific taxpayer segments, such as small businesses. For individual taxpayers, the Understanding Taxes program, available on IRS.gov, makes learning about taxes interactive, relevant and educational. It is a great tool for high schools, colleges, and the general public.

Specialty products for small businesses include:

- Small Business Tax Workshops and Workbooks;
- Small Business On-Line Classroom – Video streaming of a Small Business Workshop and on-line courses;
- Small Business Resource Guide - A one-stop tax information/management tool;
- Introduction to Federal Taxes for Small Business/Self-Employed CD ROM – Comprehensive tool that teaches the basics of how to comply with IRS regulations; and,
- Tax Calendar for Small Business/Self-Employed – Wall calendar with helpful information and common tax filing dates.

The staffs of Taxpayer Education and Communication (TEC), within the Small Business/Self Employed Operating Division, and Stakeholder Partnerships, Education and Communication (SPEC), within the Wage & Investment Operating Division, leverage numerous partners in the private and public sectors to inform, educate, and assist taxpayers in understanding and complying with their tax law responsibilities.

MEASURING TAXPAYER BURDEN

The Individual Taxpayer Burden Model is the product of IRS's collaborative efforts with IBM Consulting Services and representatives from Treasury, OMB, and GAO to develop new estimates of burden. This new tool is designed to improve our understanding of the impact on taxpayers of changes in tax policy and tax administration. The model provides separate estimates of the taxpayer time and out-of-pocket expense for filing and pre-filing activities. For the first time, IRS is able to evaluate the burden on specific types of taxpayers, for example, taxpayers who prepare their taxes using paper forms or software or who rely on paid professionals. We can also look at the burden from basic taxpayer activities, such as record-keeping and form completion.

We are currently working with IBM to develop a model of Small Business Taxpayer Burden. Two small business surveys, covering income taxes and employment taxes, are underway. The survey data will be the basis for developing a micro-simulation model similar to the individual model. Tax law, filing regulations, and taxpayer attributes (behavior) will be incorporated with IRS administrative data and survey data in the model. We anticipate completion of the model in mid-2005.

We plan to develop burden models covering most taxpayers, including mid-size corporations and tax-exempt entities, in addition to individuals and small businesses. . We also plan to model post-filing burden. A core technical and analytic group will

maintain and update the models and work with contractors on development of new ones. In addition, new surveys will be required every five to seven years, depending on the changes in tax laws.

The Individual Taxpayer Model has great potential for IRS and tax policy makers because it can meet a variety of different needs. IRS management can prioritize initiatives by using it to estimate the impact of major initiatives on taxpayer burden. For example, the model could be used to estimate the impact of administratively changing various thresholds, such as for interest and dividends. Also, the model could assist with the evaluation of tax policy. "What-if" scenarios reflecting potential legislative changes could be specified by model users to estimate the impact on burden. .

CONCLUSION

Mr. Chairman, in conclusion, I believe that the IRS continues to demonstrate progress in balancing compliance and customer service with burden reduction. We will continue to seek administrative and other solutions to reduce taxpayer burden. However, at the same time, tax law complexity must be properly addressed if we are to reduce taxpayer burden in a meaningful way.

Mr. OSE. Thank you, Mr. Everson.

Our third witness today I believe also is a new appearance here, that being Ms. Patricia Dalton, who is the Director of Strategic Issues at the General Accounting Office. Ma'am, welcome. You're recognized for 5 minutes.

Ms. DALTON. Thank you. Mr. Chairman, members of the committee, it is truly a pleasure to be here to discuss the implementation of the Paperwork Reduction Act of 1995. This act established goals to reduce the governmentwide paperwork burden approximately 35 percent to about $4.6 billion by September 30, 2001. Instead, burden has steadily climbed, reaching 8.2 million hours in fiscal year 2002. This year the story, while on the surface may appear encouraging, continues to show an increase in burden due to Federal actions. The data we obtained from OIRA indicates that governmentwide paperwork estimates, as of September 30, 2003, stood at 8.1 billion burden hours.

While it appears that there was a drop of approximately 116 million burden hours from the previous year, were it not for adjustments to the burden estimate, the Federal Government actually experienced an increase of about 72 million burden hours in paperwork burden.

Further, only a few agencies' paperwork estimates changed substantially during fiscal year 2003. Three departments, Defense, Labor and Treasury, exhibited substantial decreases.

It is important to understand how the agencies accomplish these results. OIRA classifies modifications, either increases or decreases in agencies' burden hour estimates, as either program changes or adjustments. Adjustments are not the result of direct Federal Government actions but are rather caused by factors such as changes in the population responding to an existing requirement, or agency reestimates of the burden associated with the collection of information.

In fact, the number of burden hours attributable to program changes has increased in every fiscal year.

The IRS accounts for about 81 percent of the governmentwide burden estimate. Because IRS constitutes such a significant portion of the governmentwide estimate, it clearly has a significant and even determinative effect on the governmentwide estimate. Treasury's submission indicates that the decrease in the department's estimate during fiscal year 2003, about 162 million burden hours out of an estimated 6.6 billion hours, was largely achieved through adjustments. Decreases of only 70 million burden hours due to agency actions and 190 million hours due to adjustments were reported, while there was an increase of 105 million burden hours due to statutory requirements.

Of the 70 million burden hours due to agency actions, we identified only 11 agency actions that reduced burden at least 250,000 hours, with all of them over a 500,000-hour reduction. Five information collections resulted in a reduction of over 64 million burden hours. There were three of these actions that were specifically directed at the small business community.

I'd now like to turn to another area in governmentwide paperwork burden. That is the PRA violations. The agencies indicated in their ICB submissions that 223 violations occurred during fiscal

year 2003. The 223 reported for fiscal year 2003—is slightly less than the number of violations reported in the previous fiscal year but still reflects significant progress from the 850 violations reported in fiscal year 1998.

OIRA, under Dr. Graham's leadership, is to be commended for the steps that they have taken to reduce violations. OIRA and the agencies have clearly made progress in reducing the overall number of Paperwork Reduction Act violations in recent years. However, more clearly needs to be done. Agencies can and should achieve OIRA's goal of zero violations. OIRA certainly has taken steps during the past year to address this problem. We believe these actions resulted in improvements that occurred during the fiscal year 2003 and will have positive benefits for years to come.

However, there are still actions that we previously recommended to improve compliance with the Paperwork Reduction Act that need to be taken. For example, OIRA could notify the budget side of OMB that an agency is collecting information in violation of the act and encourage appropriate resource management officers to use their influence to bring the agency into compliance.

OIRA could also encourage the use of best practices in agencies with good records of compliance, such as the Department of Labor, the Departments of Transportation and Treasury.

We also recognize that OIRA cannot eliminate violations by itself. Federal agencies committing these violations needs to demonstrate a similar level of resolve. The President's initiative to reduce regulatory reporting requirements can serve as a vehicle to achieve zero violations. It also can serve as a vehicle to get to even further reductions in paperwork burden itself.

Mr. Chairman, that completes my statement. I'd be pleased to answer any questions.

[The prepared statement of Ms. Dalton follows:]

United States General Accounting Office

GAO

Testimony

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

For Release on Delivery
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PAPERWORK REDUCTION ACT

Agencies' Paperwork Burden Estimates Due to Federal Actions Continue to Increase

Statement of Patricia A. Dalton, Director
Strategic Issues

GAO-04-676T

April 20, 2004

GAO
Accountability · Integrity · Reliability

Highlights

Highlights of GAO-04-676T, a testimony before the Subcommittee on Energy Policy, Natural Resources and Regulatory Affairs, Committee on Government Reform, House of Representatives

PAPERWORK REDUCTION ACT

Agencies' Paperwork Burden Estimates Due to Federal Actions Continue to Increase

Why GAO Did This Study

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

What GAO Recommends

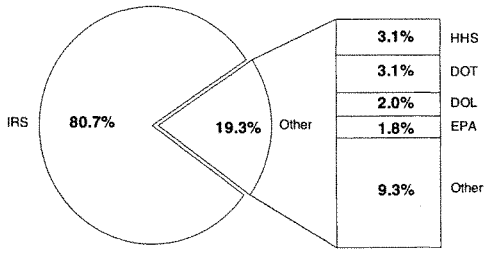
GAO is not making any recommendations. However, because IRS accounts for most of the federal paperwork and therefore has a determining impact on the governmentwide burden-hour estimate, OMB could focus more of its burden reduction efforts on that agency. Also, OMB and the agencies could do more to reduce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

What GAO Found

As of September 30, 2003, federal agencies estimated that there was about 8.1 billion "burden hours" of paperwork governmentwide. While it may appear that the paperwork burden decreased by about 116 million burden hours from last year, it is important to note that most of the reduction was achieved through adjustments—actions occurring outside of the agencies' control or as a result of reestimates of current paperwork requirements—and not through agency-initiated actions. In fact, the total paperwork burden, exclusive of adjustments, actually increased by about 72 million burden hours. IRS alone accounted for about 6.5 billion burden hours (81 percent) of the governmentwide burden-hour estimate as well as for most of the burden-hour reduction attributable to adjustments.

OMB and the federal agencies identified 223 violations of the PRA that occurred during fiscal year 2003—a slight reduction in the number of violations that were reported last year, but still progress from fiscal year 1998, when there were over 850 violations. OMB continues to take several actions to address PRA violations since last year's hearing. Still, 223 violations of the law during a single year continue to be troubling and should not be tolerated. OMB and the agencies can do more to ensure that the PRA is not violated.

IRS Accounted for Most of the Federal Paperwork Burden-Hour Estimate as of September 30, 2003



Sources: OMB and the Department of the Treasury.

www.gao.gov/cgi-bin/getrpt?GAO-04-676T.

To view the full product, including the scope and methodology, click on the link above. For more information, contact Patricia A. Dalton at (202) 512-6806 or daltonp@gao.gov.

Mr. Chairman and Members of the Subcommittee:

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

In brief, federal agencies' estimate of federal paperwork at the end of fiscal year 2003 stood at about 8.1 billion burden hours. While it may appear that the overall paperwork burden decreased by about 116 million burden hours from last year, the estimate does not tell the complete story. First, the agencies' estimates are not precise and the changes from year to year may not be meaningful. It is equally important to understand how this reduction took place. Most of this reduction was achieved through adjustments—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 compared to previous paperwork estimates—and not through agency actions. In fact, the total paperwork burden, exclusive of adjustments, actually increased by about 72 million burden hours to about 8.3 billion burden hours. Most of the burden-hour reduction due to adjustments could be attributed to IRS. IRS alone reduced its paperwork burden by 166.7 million burden hours due to adjustments. For example, one IRS information collection resulted in a reduction of 127 million burden hours, of which over 93 million burden hours were reduced as a result of adjustments to the agency's burden-hour estimate for Form 1120 which is for U.S. corporations reporting income taxes.

Also, our review of OMB's and federal agencies' information collection budgets (ICB) identified 223 violations of the PRA that occurred during fiscal year 2003—only a slight reduction in the number of violations that were reported last year, but still progress from the more than 850 violations reported during fiscal year 1998. OMB deserves credit for the reductions that have occurred in the past year. However, the existence of 223 violations of the law during fiscal year 2003 continues to be troubling and should not be tolerated. We continue to believe that OMB and the agencies can do more to ensure that the PRA is not violated.

Background

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

However, under the PRA, federal agencies are required to minimize the paperwork burden they impose. The original PRA of 1980 established the Office of Information and Regulatory Affairs (OIRA) within OMB to provide central agency leadership and oversight of governmentwide efforts to reduce unnecessary paperwork and improve the management of information resources. In September 2003, the administration introduced its six-point plan for the economy that was labeled "a full agenda for the creation of jobs in America." One of the six points is the streamlining of regulations and reporting requirements. This is seen by the administration as a critical part of creating jobs and is reiterated in the President's 2005 budget.

OIRA also has overall responsibility for determining whether agencies' proposals for collecting information comply with the PRA.[2] Agencies must receive OIRA approval for each information collection request before it is implemented. Section 3514(a) of the PRA requires OIRA to keep Congress "fully and currently informed" of the major activities under the act, and to submit a report to Congress at least annually on those activities. The report must include, among other things, a list of all PRA violations and a list of any increases in burden. To satisfy this reporting requirement, OIRA

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

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

develops a governmentwide ICB by gathering data from executive branch agencies. In December 2003, the OMB Director sent a bulletin to the heads of executive departments and agencies requesting information to be used in preparation for the fiscal year 2004 ICB (reporting on actions during fiscal year 2003).

OIRA published its ICB for fiscal year 2003 (showing changes in agencies' burden-hour estimates during fiscal year 2002) in April 2003. OIRA officials told us that they did not expect to publish the ICB for fiscal year 2004 until today's hearing. Therefore, we obtained unpublished data from OIRA to identify changes in governmentwide and agency-specific burden-hour estimates and PRA violations during fiscal year 2003. We then compared the data to agencies' burden-hour estimates and violations in previous ICBs to determine the changes in the data over time.

"Burden hours" 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 important to recognize that these estimates have limitations. Estimating the amount of time it will take for an individual to collect and provide the information or how many individuals an information collection will affect is not a simple matter.[3] Therefore, the degree to which agency burden-hour estimates reflect real burden is unclear. IRS—which accounts for about 80 percent of the governmentwide burden—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 its paperwork burden. Nevertheless, these are the best indicators of paperwork burden available, and we believe they can be useful as long as their limitations are kept in mind.

Scope and Methodology

In conducting our review, we obtained from OIRA the individual agencies' submissions to the ICB. These submissions contain the agency-reported changes to the individual paperwork inventories, as well as those violations of the PRA they identified as having occurred during fiscal year 2003. We assessed the data reliability of the individual agencies' burden-hour estimates and violations by (1) performing electronic testing for obvious

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

errors in accuracy and completeness, (2) reviewing relevant documents such as OMB guidance in reporting burden-hour estimates and violations and the dockets for selected information collections, and (3) interviewing knowledgeable OMB officials. We determined that the data were sufficiently reliable for the purpose of this statement. We conducted our review from February through April 2004 in accordance with generally accepted government auditing standards.

Small Decrease in the Governmentwide Paperwork Burden Reported for 2003, but Burden Due to Federal Actions Increases

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

However, this reduction in paperwork burden did not occur. As of September 30, 2001, the target date in the act, the federal paperwork estimate had increased by about 9 percent to 7.6 billion burden hours. Last year we reported that the federal paperwork estimate stood at 8.2 billion hours as of September 30, 2002. The increase from the previous year (about 570 million burden hours) was the largest 1-year increase since the act was recodified in 1995.

This year, the story, while on the surface may appear encouraging, is not. The data we obtained from OIRA indicate that the governmentwide paperwork estimate as of September 30, 2003, stood at 8.1 billion burden hours. First, this is about 1.1 billion burden hours larger than it was when the PRA took effect in 1995. In addition, while it appears that there was a drop of about 116 million burden hours from the previous year, were it not for adjustments to the burden estimate, the federal government actually experienced an increase of about 72 million burden hours in paperwork burden. However, even at 8.1 billion burden hours, the governmentwide paperwork estimate is 3.5 billion burden hours higher than the act's target estimate at the end of September 30, 2001.

The overall burden-hour estimate does not tell the complete story however. First, the agencies' estimates are not precise and the changes from year to year may not be meaningful. It is equally important to understand how the reduction took place. As table 1 shows, were it not for the burden-hour reduction of about 182 million due to adjustments, there was an increase in the paperwork burden of 72 million burden-hours. Table 1 also shows that only a few agencies' paperwork estimates changed substantially during fiscal year 2003. The Department of Homeland Security (DHS) was created during fiscal year 2003 and by the end of the fiscal year had an estimated 78.2 million burden hours of paperwork. Most of the DHS paperwork burden was the result of requirements associated with the paperwork inventories that were combined in establishing DHS.[4] Three departments—Defense, Labor, and the Treasury—exhibited substantial decreases in their estimated burdens, with Treasury's decrease far outstripping the others. However, much of the Treasury's burden-hour reduction was due to adjustments.

Table 1: Reported Changes in Federal Agencies' Burden-Hour Estimates during Fiscal Year 2003

Burden hours in millions

		Program changes						
	FY 2002 estimate	New statutes	Lapses in OMB approval	Agency action	Total	Adjustments	Total change	FY 2003 estimate
Governmentwide	8,221.7	122.3	(53.8)	3.6	**72.1**	(181.7)	**(116.3)**	8,105.4
Non-Treasury	1,471.8						**44.8**	1,516.6
Departments								
Agriculture	88.6	0.7	(0.1)	9.7	**10.3**	(1.5)	**8.8**	97.4
Commerce	11.7	0.0	–	4.6	**4.6**	1.0	**5.6**	17.3
Defense	92.4	–	(54.7)	12.1	**(42.6)**	0.0	**(42.6)**	49.8
Education	38.4	2.8	0.0	0.6	**3.4**	(1.3)	**2.1**	40.5
Energy	3.8	0.1	(0.1)	(0.4)	**(0.4)**	0.0	**(0.4)**	3.4
Health and Human Services	224.8	4.1	3.7	(5.3)	**2.5**	26.4	**28.9**	253.7

[4]For example, 10 information collections were contained within the Immigration and Naturalization Service (INS) inventory. When the President signed the Homeland Security Act of 2002 that transferred INS into the newly established DHS, these information collections became part of the new department's burden-hour estimate. These 10 information collections accounted for almost 31 million burden hours—about 38 percent of the department's paperwork burden.

(Continued From Previous Page)

Burden hours in millions

	FY 2002 estimate	Program changes: New statutes	Program changes: Lapses in OMB approval	Program changes: Agency action	Program changes: Total	Adjustments	Total change	FY 2003 estimate
Homeland Security	–	(0.5)	(2.0)	37.5	**35.1**	43.0	**78.2**	78.2
Housing and Urban Development	21.9	0.0	1.0	(0.1)	**0.9**	2.9	**3.8**	25.7
Interior	7.7	0.0	0.0	(0.1)	**(0.1)**	(0.1)	**(0.2)**	7.5
Justice	46.6	0.7	(0.1)	0.1	**0.1**	(32.0)	**(31.2)**	15.3
Labor	189.2	0.2	–	(0.1)	**0.1**	(29.8)	**(29.7)**	159.5
State	29.2	–	0.0	0.3	**0.3**	(0.1)	**0.2**	29.4
Transportation	244.7	2.9	(1.4)	4.9	**6.4**	(1.5)	**4.9**	249.6
Treasury	6,750.4	105.4	–	(70.0)	**35.4**	(197.0)	**(161.6)**	6,588.8
Veterans Affairs	7.4	0.1	–	(0.1)	**0.0**	–	**0.0**	7.4
Agencies								
Environmental Protection Agency	140.5	2.7	–	7.4	**10.1**	(1.8)	**8.3**	148.3
Federal Acquisition Regulations	24.5	–	–	(0.8)	**(0.8)**	6.9	**6.1**	30.6
Federal Communications Commission	26.8	0.1	(0.2)	1.1	**1.0**	(1.1)	**(0.1)**	26.7
Federal Deposit Insurance Corporation	9.9	–	–	0.0	**0.0**	0.1	**0.1**	10.0
Federal Energy Regulatory Commission	4.4	–	0.0	0.0	–	–	–	4.4
Federal Trade Commission	69.7	0.5	–	0.7	**1.2**	(4.0)	**(2.8)**	66.9
National Aeronautics and Space Administration	6.0	–	–	(0.2)	**(0.2)**	0.0	**(0.2)**	5.8
National Science Foundation	4.5	–	–	–	–	0.0	**0.0**	4.5
Nuclear Regulatory Commission	8.3	–	–	0.0	**0.0**	0.5	**0.5**	8.8
Securities and Exchange Commission	136.6	0.7	–	0.9	**1.6**	7.1	**8.7**	145.3
Small Business Administration	2.8	–	0.0	–	**0.0**	0.0	**0.0**	2.8
Social Security Administration	24.9	2.0	–	0.8	**2.8**	0.6	**3.4**	28.3

Sources: OMB and agencies' ICB submissions.

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

It is important to understand *how* the agencies accomplish these results. OIRA classifies modifications—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 or agency-initiated actions or through the expiration or reinstatement of OIRA-approved collections.

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

The agencies' ICB submissions identified what drove the changes in the agencies' bottom-line burden-hour estimates during fiscal year 2003. Some of the changes in the agencies' burden-hour estimates are the results of legislative actions and are partially outside the agencies' control. However, much of the burden-hour decrease experienced during fiscal year 2003 was driven by agencies' adjustments to their inventories of paperwork requirements and not through agency-initiated actions. As table 2 shows, the number of burden hours attributable to program changes has increased every fiscal year from 1998 to 2002. During fiscal year 2003 the total paperwork burden, exclusive of adjustments, increased again by about 72 million burden hours.

Table 2: Increases in Burden Hours due to Program Changes Between Fiscal Years 1998 and 2003

In millions

Fiscal year	Total governmentwide burden-hour estimate	Number of burden hours due to program changes
2003	8,105.4	72.1
2002	8,223.2	294.1
2001	7,651.4	158.7
2000	7,361.0	188.0

(Continued From Previous Page)

In millions

Fiscal year	Total governmentwide burden-hour estimate	Number of burden hours due to program changes
1999	7,183.9	189.0
1998	6,951.1	41.1

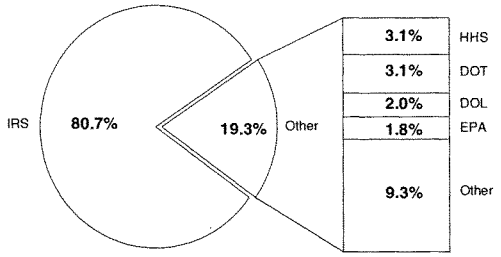
Sources: OMB and agencies' ICBs.

IRS Burden-Hour Estimates Greatly Influence the Governmentwide Paperwork Estimate

We have previously reported that the increases in paperwork burden experienced by the federal government were largely attributable to the increases in IRS paperwork. For example, last year, when the government reported an increase of 570 million burden hours, IRS accounted for almost 60 percent (about 330 million burden hours) of the reported increase. For fiscal year 2003, the decrease in the governmentwide paperwork burden is also attributable to changes in IRS paperwork that resulted in a decrease in burden. IRS reported a decrease of 131.4 million burden hours that was more than enough to offset the increases experienced by the other federal agencies. Therefore, although all agencies must ensure that their information collections impose the least amount of burden possible, it is clear that the key to controlling federal paperwork governmentwide lies in understanding the influence of increases and decreases at IRS.

As of September 30, 2003, IRS accounted for about 99 percent of the Department of the Treasury's burden-hour estimate—nearly 6,539.7 billion burden hours. In fact, as figure 1 shows, IRS accounted for about 81 percent of the governmentwide burden-hour estimate (up from about 75 percent in September 1995). Other agencies with burden-hour estimates of 100 million hours or more as of that date were the Departments of Health and Human Services (HHS), Labor (DOL), and Transportation (DOT), the Environmental Protection Agency (EPA); and the Securities and Exchange Commission. Still, because IRS constitutes such a significant portion of the governmentwide burden-hour estimate, changes in IRS's estimate can have a significant—and even determinative—effect on the governmentwide estimate.

Figure 1: IRS Accounted for Most of the Federal Paperwork Burden-Hour Estimate as of September 30, 2003



Sources: OMB and the Department of the Treasury.

Note: The governmentwide burden-hour estimate as of September 30, 2003, was about 8.1 billion burden hours.

Treasury's ICB submission indicated that the decrease in the department's estimate during fiscal year 2003 (about 162 million burden hours) was largely achieved through adjustments. Decreases of 70 million burden hours due to agency actions and 190 million burden hours due to adjustments were reported, while there was an increase of 105 million burden hours due to statutory requirements. According to the ICB submission, this adjustment was largely driven by adjustments associated with the Forms 1040 and 1040A that are used by individual taxpayers to report their taxable incomes, and Form 1120, which is used by corporations to compute their taxable income and tax liability.

During fiscal year 2003, IRS's paperwork burden decreased by about 70 million burden hours due to agency actions. As table 3 shows, five information collections resulted in a reduction of about 64 million burden hours as a result of implementing burden reduction initiatives developed in previous fiscal years. Another 17 million burden-hour reduction was achieved as a result of IRS changing paperwork requirements not directed by a burden reduction initiative. However, four of these information collections resulted in a burden-hour decrease of over 190 million hours due to adjustments to the collections. Since OMB does not require agencies to report on the reasons for changes in paperwork burden due to adjustments in their ICB submissions, we are unable to identify the

underlying factors that resulted in these decreases in IRS paperwork burden.

Table 3: IRS Information Collections with Burden-Hour Reductions of 500,000 or More Due to Agency Actions

OMB control number	Title	Due to statutory changes	Due to agency actions	Due to adjustments	Reason(s) for decrease
1545-0074	2003 Form 1040 and Schedules, U.S. Individual Income Tax Returns	+15,974,817	-9,875,098	-87,978,659	IRS made changes—deletions of lines--to the Form 1040 and its instructions and schedules. (9,664,549) The number of new filers for Form 1040-V should have been an adjustment instead of a program change. (210,549)
	2003 Form 1040, U.S. Individual Income Tax Returns	+2,840,101	-15,616,147		As part of the Burden Reduction Initiatives, the Department of the Treasury decided to increase the threshold for filing Schedule B (Form 1040) to $1,500. As a result, this changed the number of filers. (15,616,147)
1545-0085	2002 Form 1040A and Schedules, U.S. Individual Income Returns	+4,219,190	-992,751		IRS removed two check boxes on the Social Benefits Worksheet for clarification purposes to reduce burden and provide consistency with various products. (992,721)
	2002 Form 1040 A and Schedules, U.S. Individual Income Tax Returns		-1,612,553		As part of the Burden Reduction Initiatives, the Department of the Treasury decided to increase the threshold for filing Schedule 1 (Form 1040A) from $400 to $1,500. As a result, this changed the number of filers. (1,612,553)
1545-0092	U.S. Income Tax Return for Estates and Trusts	2,272,477	-1,492,190		IRS deleted lines from the Schedule D worksheet and from Schedule I that offset an increase from added lines to Schedule D. (1,492,190)
1545-0123	Form 1120 and Schedules, U.S. Corporation Income Tax Return	-4,439,447	-29,316,584	-93,263,395	As part of the Burden Reduction Initiatives, the Department of the Treasury decided that corporations with total receipts and assets of less than $250,000 are not required to complete Schedules L, M-1, and M-2. (26,211,719) IRS also made changes throughout Form 1120, schedules, and instructions. (3,104,865)
1545-0130	2002 Form 1120S and Schedules, U.S. Income Tax Returns for an S Corporation		-14,262,930		As part of the Burden Reduction Initiatives, the Department of the Treasury decided that corporations with total receipts and assets of less than $250,000 are not required to complete Schedules L and M-1. (14,262,930)

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OMB control number	Title	Due to statutory changes	Due to agency actions	Due to adjustments	Reason(s) for decrease
1545-0130	2002 Form 1120S and Schedules, U.S. Income Tax Returns for an S Corporation	+5,035,690	-585,430		IRS deleted Schedule D (Part III-Capital Gains Tax) because it was no longer relevant and added one line to Schedule B. (585,430)
1545-0890	2002 Form 1120-A, U.S. Corporation Short-Form Income Tax Return	-427,645	-2,950,743	-11,045,000	As part of the Burden Reduction Initiatives, the Department of the Treasury decided that corporations with total receipts and assets of less than $250,000 are not required to complete Parts III and IV. (2,576,794) IRS also deleted lines from the form and deleted a form attachment. (373,949)
1545-0975	2002 Form 1120-W and Schedules, Estimated Tax for Corporations		-549,735		IRS deleted 3 code references to Form 1120-W. (549,000) IRS deleted a line to Schedule A. (735)
1545-1696	Political Organization Report of Contributions and Expenditures		37,600	-408,400	In its ICB submission, the Department of the Treasury originally reported this as a net reduction of 370,800 burden hours due to agency action. Our review of the information collection request submission to OMB indicates that the majority of the reduction should have been classified as an adjustment since IRS said it was correcting a previous burden computation.
1545-1722	Extraterritorial Income Inclusion, Form 8873		-520,000		IRS deleted 3 lines from the form. (520,000)

Sources: OMB and the Department of the Treasury.

While IRS achieved paperwork burden decreases through agency actions and adjustments, it experienced a paperwork burden increase of about 105 million burden hours due to statutory requirements. According to Treasury's ICB, the implementation of the Jobs and Growth Tax Relief Reconciliation Act of 2003 resulted in an increase in IRS's paperwork burden of about 55 million burden hours—about 51 percent of the IRS's total increase due to statutory requirements.[5] The ICB indicates another 24 million burden-hour increase was due to changes to sections of the Internal

[5]Pub. L. No. 108-27.

Revenue Code.[6] Another 17 million burden-hour increase resulted from implementation of the Community Renewal Tax Relief Act of 2000.

Furthermore, IRS is responsible for over 80 percent of the governmentwide information collection burden; therefore, its paperwork estimate is often the driver of increases or decreases in the governmentwide burden estimate. Without the 166.7 million burden-hour reduction due to adjustments reported by IRS, governmentwide paperwork would have increased during fiscal year 2003.

IRS Continues to Develop Program Initiatives to Reduce Its Burden Estimate

In our previous testimony, we reported that Treasury had indicated in its ICB that it had taken a number of initiatives to reduce paperwork burden. In fiscal year 2002, IRS decided to increase the threshold for taxpayers having to file Schedule B (Form 1040) from $400 to $1,500. Treasury estimated that more than 10 million fewer taxpayers would have to file the schedule, about one-third of those who previously had to file. In its recent ICB submission, Treasury reported that this initiative resulted in a reduction of about 17.2 million burden hours.

Treasury also indicated in its ICB submission that it had taken additional initiatives to reduce paperwork burden. For example, it has decided to require certain employers to submit Form 941 annually, instead of quarterly, in order to

- reduce taxpayer burden,
- maintain current payment compliance levels, and
- encourage the use of paperless filing.[7]

Once Treasury, in consultation with other stakeholders (e.g., the Social Security Administration, the U.S. Census Bureau, and the Small Business Administration) has identified a group of taxpayers who would be allowed to provide the required information annually, rather than quarterly, it would

[6]According to Treasury's ICB, changes were made to its paperwork inventory as a result of requirements under sections 403(b), 457(b), 501(c), 679, and 3406 of the Internal Revenue Code.

[7]Form 941 is used by employers to report to IRS how much they paid in employment taxes for their employees.

experience a further reduction in its paperwork burden. However, Treasury does not expect to implement this annual reporting option until January 2006, and it could not estimate how many burden hours would be reduced as a result of this action.

More Needs to Be Done to Reduce Paperwork Burden

In summary, the agencies' information collection estimates for the governmentwide ICB indicate that federal paperwork experienced its first reduction since 1996, and that IRS continues to be a determining factor in whether the federal government experiences a decrease or an increase in its paperwork burden. While there is a small decrease in the reported paperwork burden for fiscal year 2003, it is important to note that most of the reduction was achieved through adjustments to information collections and not through program changes, including agency actions. Therefore, this reduction appears to be achieved as a result of external factors, or as a result of reestimations of current paperwork requirements. These adjustments are not actual reductions experienced by the affected parties, rather, they are reestimations of the number of people or businesses required to provide the information or the time it takes to complete the form(s) used to collect the information. In some cases these adjustments may be corrections of mathematical errors. Exclusive of these adjustments, the paperwork burden actually increased during fiscal year 2003.

Clearly, there is much that needs to be done to reduce the governmentwide paperwork burden. Currently, the government's paperwork burden estimate is nearly double the PRA target estimate for fiscal year 2001 of 4.6 billion burden hours. In addition, one component of the President's initiative to promote job growth focuses on reducing regulatory and reporting requirements. However, paperwork burden reduction goals and the means of achieving these goals were not articulated in the President's 2005 budget.

Because IRS constitutes such a significant portion of the federal burden, one strategy to address agency-initiated decreases is to focus more of OIRA's burden-reduction efforts on IRS. As we reported last year, five IRS information collections represented nearly half of the governmentwide paperwork burden estimate. A small reduction in the burden associated with those five collections could have a major effect on reducing the paperwork burden governmentwide.

Agencies Report a Slight Reduction in PRA Violations

I would now like to turn another topic that you asked us to address—PRA violations. The PRA prohibits an agency from conducting or sponsoring the collection of information unless (1) the agency has submitted the proposed collection and other documents to OIRA, (2) OIRA has approved the proposed collection, and (3) the agency displays an OMB control number on the collection. The act also requires each agency to establish a process to ensure that each information collection is in compliance with these clearance requirements. OIRA is required to submit an annual report to Congress that includes a list of all violations. Under the PRA, no one can be penalized for failing to comply with a collection of information subject to the act if the collection does not display a valid OMB control number. OIRA may not approve a collection of information for more than 3 years, and there are currently over 8,100 approved collections.

As table 4 shows, the agencies indicated in their ICB submissions that 223 PRA violations occurred during fiscal year 2003 (i.e., were either carried over from the previous year or were new violations). As in previous years, most of these violations were collections for which OIRA approvals had expired and had not been reauthorized. Five cabinet departments were responsible for 57 percent of the violations—the Departments of Agriculture, Commerce, Defense, Health and Human Services, and Housing and Urban Development.

Table 4: Reported Violations of the PRA during Fiscal Year 2003

Department/agency	Expired information collections	Other violations	Total violations
Departments			
Agriculture	25	7	**32**
Commerce	10	4	**14**
Defense	27	0	**27**
Education	2	3	**5**
Energy	3	0	**3**
Health and Human Services	21	2	**23**
Homeland Security	18	0	**18**
Housing and Urban Development	26	0	**26**
Interior	1	4	**5**
Justice	16	0	**16**

(Continued From Previous Page)

Department/agency	Expired information collections	Other violations	Total violations
Labor	0	0	**0**
State	7	1	**8**
Transportation	5	1	**6**
Treasury	0	0	**0**
Veterans Affairs	3	0	**3**
Agencies			
Environmental Protection Agency	0	0	**0**
Federal Acquisition Regulation	0	0	**0**
Federal Communications Commission	4	0	**4**
Federal Deposit Insurance Corporation	0	0	**0**
Federal Energy Regulatory Commission	4	0	**4**
Federal Trade Commission	0	0	**0**
National Aeronautics and Space Administration	1	1	**2**
National Science Foundation	0	0	**0**
Nuclear Regulatory Commission	0	0	**0**
Securities and Exchange Commission	2	0	**2**
Small Business Administration	17	2	**19**
Social Security Administration	0	7	**7**
Total	**192**	**31**	**223**

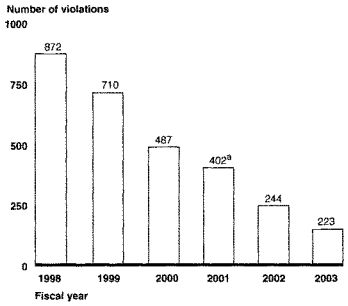
Sources: OMB and agencies' ICB submissions.

Number of Violations Continues to Decline

As figure 2 shows, the number of PRA violations that the agencies identified has continued to fall over the past 6 fiscal years—from 872 violations during fiscal year 1998 to 223 during fiscal year 2003. The 223 violations reported for fiscal year 2003 is slightly less than the number of violations reported in the previous fiscal year (244), but still progress from the more than 850 violations reported during fiscal year 1998. However, the agencies' ICBs showed that there were an additional 24 information collections in fiscal year 2003 that appear to be violations but were reported by the agencies as nonviolations. According to OMB, these nonviolations were instances in which the agencies allowed information collections to expire, and then determined that they still needed to collect the information, and therefore requested reinstatements for the information collections. OMB states that in these instances, the agencies did not collect information during the time lapse between the expiration

date and reinstatement date, and therefore the agencies did not commit any violations.

Figure 2: PRA Violations during the Past 6 Fiscal Years

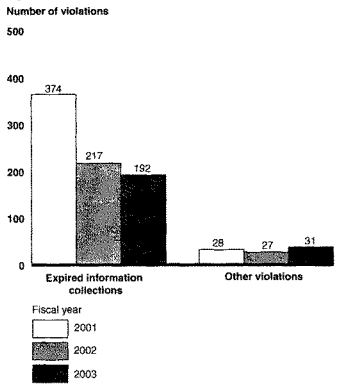


Sources: OMB and agencies' ICB submissions.

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

However, as figure 3 shows, our review of the violations reported by the agencies indicates that while violations based on collections where OIRA authorization had expired continue to decline, there was an increase in the number of violations where the agencies had not received OIRA approval prior to collecting the information. While OIRA is able to track those violations where the authorization has expired, it is unable to track, and control, those information collections that had not received its approval.

Figure 3: Changes in Violations from Fiscal Years 2001 through 2003



Sources: OMB and agencies' ICBs.

OIRA Continues to Emphasize Zero Tolerance for Violations

In May 2003, the OIRA Administrator sent a memorandum to agency chief information officers emphasizing the importance of "full compliance" with the PRA. The Administrator said that "the recurring high level of PRA violations, although decreasing over time, was unacceptable," and that OIRA, together with the agencies, "can and must meet a goal of full compliance." He continued to encourage agencies to review their procedures for preventing future violations and the status of the collections of the agencies' PRA inventories.

When OIRA issued its bulletin requesting data from the agencies for the fiscal year 2004 ICB, it provided the agencies with three lists for tracking violations in fiscal year 2003. The first list consisted of all information collections in OIRA's inventory that expired and had not been reinstated during fiscal year 2003. The second list consisted of all information collections in its inventory that expired and were reinstated during fiscal year 2003. For these lists, the agencies were asked to verify the

information and correct any missing or incorrect information. In addition, for the list of expired and reinstated collections, the agencies were asked to indicate if expirations were intentional lapses (where the agencies did not collect information) or violations. Thus, agencies were reminded of OIRA's efforts to reduce the number of PRA violations.

OIRA Can Do More to Address Violations

Although OIRA and the agencies have clearly made progress in reducing the overall number of PRA violations in recent years, more progress is needed. As I am sure that the Administrator would agree, 223 violations of the law in 1 year is not acceptable. Agencies can and should achieve OIRA's goal of zero violations.

As I noted earlier, OIRA has taken a number of steps during the past year to try to address this problem. As we recommended last year, OIRA has used its database to identify information collections that have recently expired and attempted to determine whether the agencies are continuing to collect the information. OIRA also continues to ask the agencies to describe the procedures that they have in place to prevent future violations. We believe that these actions resulted in the improvements that occurred during fiscal year 2003 and will have positive benefits for years to come.

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

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

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

Contacts and Acknowledgments

For future information regarding this testimony, please contact Patricia A. Dalton, Director, Strategic Issues, at (202) 512-6806, or daltonp@gao.gov. Other individuals who made key contributions to this testimony were Leah Nash and Joseph Santiago.

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Mr. OSE. Thank you. I want to thank the witnesses for not only their written but also the oral testimony.

Before we get to questions, I want to make sure that you understand how I look at this universe here. It seems to me that there are two groups of regulations we're dealing with. One is those that existed before the year 2000 and those that existed since I became chairman or those that have come to the fore since I became chairman.

Now, within those two universes, as it relates to those that have come into existence since I became chairman, Dr. Graham, you've done a remarkable job in terms of looking at the content of those proposed new regulations, using prompt letters to keep the agencies focused on what congressional intent is, and processing the appropriate rules and regulations for it, and that's reflected in that chart by the decline in the rate of growth accordingly.

Part and parcel of your consideration in those regulations that have been considered since the year 2000 has been, you know, the practical utility of the information being collected, the periodicity of the reports, and the threshold requirements for actually submitting the reports.

One of the things that we're concerned about in the context of this entire universe, not only just the stuff since 2000 but previous to 2000, is the periodicity of reports, the threshold requirements, and the public utility of the information being collected.

The reason I put this out here is that I want you to frankly consider your answer in terms of how I'm looking at this thing. I think Congressman Schrock shares much of my perspective. He's probably got a more eloquent way of saying it, but that's what I'm trying to get at is not only new versus old but as it relates to periodicity, threshold reporting, and the public utility of the information being collected.

Having said that, Dr. Graham, our invitation asked for you to address four specific subjects. One is the detailed plan within the President's six-point economic growth plan for streamlining regulations and reporting requirements.

On pages 7 and 8 of your statement, Dr. Graham, you briefly discussed this component, and you mention several changes made by the administration in the regulatory process. For instance, data quality and peer review. What I'm interested in is what specific proposed paperwork reduction initiatives have you been able to identify to meet the President's economic growth plan component for streamlining the reporting requirements, and then whether or not you've been able to do a calculation as to the cumulative number of burden reduction hours associated with them?

Mr. GRAHAM. Mr. Chairman, the approach we've taken, as you know, on these existing regulations and paperwork requirements is a public nomination process where people, businesses or citizens who are experiencing these burdens, have the opportunity to nominate specific rules and paperwork requirements that they feel need to be reformed. We did that in 2001 and in 2002, and we had roughly 300 nominations from around 1,700 commenters.

It's interesting to notice that the vast majority of those nominations addressed regulations rather than paperwork burdens, and the reason we believe that's true at OMB is that many of the pa-

perwork burdens that we're all concerned about are rooted in regulation.

While it is possible on occasion to reduce the paperwork burden without touching the regulation, the more common scenario is you have to change the regulation in order to reduce the paperwork burden. Even more frustratingly, you may have to change the entire law or the underlying statute, and I'm sure we'll talk about that more in just a moment.

So, what we have found and heard from the regulated community is keep your eye on the ball as the executive branch on the regulatory burdens themselves, and a lot of the paperwork burden reduction will follow. You see in that chart on your left, for anybody who believes in numeric performance in terms of results, this administration has dramatically reduced the growth rate of Federal regulatory costs.

Now, as you say, the existing regulatory burden is a much, much bigger challenge, and we're humbled by it, quite frankly.

Mr. OSE. Even within the 300 nominees from the 1,700 comments, I'm not trying—and I don't think Congressman Schrock is trying—to second-guess whether or not this or that regulation is properly constructed in terms of impact. What we are trying to find out is whether or not, for instance, the reporting periods are the proper length of time. I think Mr. Everson talked about the 941 reports, scheduled in year 2006 to go to an annual basis rather than a quarterly basis. That's the kind of thing that I'm focused on, because in effect, what you're doing as it relates to that report is reducing the paperwork by a factor of 75 percent.

I'm trying to find out whether or not OMB has identified any such opportunities.

Mr. GRAHAM. Yes. The classic work of the OIRA desk officer on a paperwork request from an agency is to examine the issues you've just described, and they do it with regard to all of the various agencies that produce and provide information collection requests to OIRA. In this report, we are actually giving you the concrete examples of where we have made progress in reducing that paperwork burden. This year, for the first time, we introduced a separate chapter on IRS that involves not only the progress they've made but what their anticipated objectives are in the future. Where they can, they've actually quantified the accomplished or the anticipated burden reduction. I don't have all those numbers right off the top of my head, but they're right in there in that separate chapter on IRS.

Mr. OSE. The IRS number is——

Mr. GRAHAM. We have all the agencies, but as you have persuaded us over the years, since IRS accounts for over 80 percent of the overall burden, it would seem appropriate that we would have a considerable emphasis on the Tax Code's associated burdens in this report, and we have done so.

Mr. OSE. And, again, we're not talking about the substance of the tax law or how it's applied. We're talking about the thresholds and the periodicity reporting requirements within the—I mean, we're not talking about——

Mr. GRAHAM. I'm not going to agree to that premise quite so easily. It's a lot more complicated. What we have found at OMB is

that, when you get into a desk officer's job of reviewing IRS information collection requests, and we have been more aggressive in the last year working with my deputy director and our desk officer working on these problems—we find that the distinction between paperwork review and tax policy is not easy to make. Quite frankly, inevitably you get into questions about how much documentation should a taxpayer have to have in order to claim this particular deduction or credit or whatever. And, oftentimes, the recordkeeping requirements, for example, are motivated or are instigated by these types of provisions. Once you start to ask questions about that, which we do with our colleagues from IRS and Treasury, then they come back to us and inevitably we find ourselves in a discussion of tax policy. And, when that goes up in the chain at OMB you know the answer at that point.

Mr. OSE. And, that's proper. I mean, I——

Mr. GRAHAM. So, I think paperwork review and tax policy are losely intertwined.

Mr. OSE. Let's go back to this desk officer. In terms of the paperwork reductions that the desk officer has either suggested or forced upon the agencies, can you give us some sense of any that have been accomplished?

Mr. GRAHAM. Well, I think in the testimony from IRS, Mr. Everson can give you the details on it. IRS has made significant progress, and we would argue that most of that activity was initiated by IRS. We would not be here today suggesting that OMB initiated that activity. However, we have collaborated with IRS in the development of its improved model to actually measure burden, which allows us to get at the question of how much progress are we actually making.

Mr. OSE. If the gentleman from Virginia would just bear with me here, have there been—separate and apart from the IRS, has the desk officer charged with this responsibility at OMB been able to identify any other paperwork reductions?

Mr. GRAHAM. You mean separate from IRS?

Mr. OSE. Separate from your accomplishments so far, collaboratively or otherwise, with the IRS?

Mr. GRAHAM. Right.

Mr. OSE. Has the desk office been able to identify paperwork reductions that have been able to be implemented?

Mr. GRAHAM. Certainly. And I can give you, if you'd like to put that into writing, some examples.

Mr. OSE. We'll do that. We would appreciate having some examples.

The gentleman from Virginia.

Mr. SCHROCK. Thank you, Mr. Chairman. Thank you all for being here.

Your comment about Tax Code reform is squarely right on, and I think there are two Members of Congress, Senator Saxby Chambliss and Congressman John Linder from Georgia, who are beating that drum. Over the 2-week break we had, if I heard them on the radio once, I heard them five or six times. It's a daunting task, and however we need to get our hands around it, it's a mystery to me: but, at some point it has to be done.

Commissioner, I want to ask you a few questions about your new burden model for small businesses, and you said it will take into account all out-of-pocket expenses. In your testimony that's what it said. Will this model include in your burden estimates of the costs of paying someone else to fill out the tax returns for you or the cost of purchasing software?

Mr. EVERSON. That number I referred to earlier for the individuals, 157, and we're developing other pieces of the model as we go. That does include the paid professional or the software does. My understanding is that the old model was last updated back in the 1980's. There was an assumption as to what a line on a return or on a form cost in terms of burden. That clearly was an incomplete picture.

As we look at this, I'm struck by how complex a subject this is and how much work it needs. In terms of an ongoing review, we're doing that with OIRA, working with SBA, and the Department of the Treasury. As I understand it, even now the new model won't capture things from electronic filing, such as post filing burden. This is a huge change, where if things are simplified and the returns come in electronically and there are fewer errors in them, then there are fewer notices generated back to the taxpayer. That's a reduction of burden, too, that we don't yet contemplate. So there are lots of ramifications on all of that that over time need to be factored into our work.

Mr. SCHROCK. Will this burden model also be able to calculate how many more people will pay someone else to prepare their taxes as a result of the added complexity which seems to mount every year?

Mr. EVERSON. We track that every year as it is. The percentage of people that are actually paying someone else to prepare their return is now over 50 percent. It's 56 percent. As I indicated in the statement, 15 percent more people are filing electronically. That actually is good news, because what happens is it's more reliable, it's faster in terms of getting the refund done. The returns don't get lost in the mail. That's all good news, but I think it does reflect the burden, the fact that people will buy this package, if you will, or go down to their paid preparers because they're a little bit frustrated by the complexity of the Code themselves.

Now, I use one of these packages myself for my own return, and I think it was quite good, because it gives you a series of yes or no or fill in the blank alternatives, because, if you've got to go through these forms, my goodness, they are quite complex. I agree that's not a viable way to go.

Mr. SCHROCK. You do your own taxes?

Mr. EVERSON. I've done my own taxes a couple of years. It was a little more complicated. I used to live overseas and that's really complicated. I had someone else do it in those days.

Mr. SCHROCK. I don't dare. I don't take the chance. Well, seriously, I just want to make sure they are done right.

As an aside here, my tax guy does it electronically now, and he's in San Diego and I'm in Virginia Beach, but I still sign paperwork. What's going to happen when it's all electronic? How am I going to be able to do that, because I intend to keep him for as long as I——

Mr. EVERSON. We're working with the practitioners to speed and increase the number of electronic options. Right now, we've just introduced a new set of options whereby a practitioner can file—for instance, for an employer identification number online, we've had a number of those applications. This is a dramatic change. I just happened to have some testimony, if you'll indulge me for just a second, from the Ways and Means Committee from the National Association of Enrolled Agents, and this was just a couple weeks ago. He said that, in January of this year, the IRS reached a major milestone in the development of new electronic capabilities that will revolutionize the way we as tax practitioners will conduct future business with the IRS. He talks about these various services. Then, he says the new set of e-services products which will allow tax practitioners to represent their clients electronically and in a highly secure environment has left me utterly speechless. I can assure you that I do not make this statement lightly. There's a real excitement out there because of these changes.

Mr. SCHROCK. I know it had nothing to do with the hearing, but I had to understand that. Mr. Chairman, I know my time has run out.

Well, can you share with us the calculations and assumptions that go into the production of your model, and will it be transparent, or do you plan to keep that away from public view? And, will taxpayers and small business groups have the opportunity to comment on your model and make suggestions for improvements?

Mr. EVERSON. Yes, sir. We'll do all those things.

Mr. SCHROCK. Every one of those? OK.

Will your new model be able to calculate the cumulative burden on a small business of the new paperwork?

Mr. EVERSON. I missed a word in there, sir. Will it be able to calculate what?

Mr. SCHROCK. I probably skipped one. Will your new model be able to calculate the cumulative burden on a small business of a new paperwork requirement in comparison to the current imposed burden so that regulatory decisions can be made about a new requirement's impact in the context of the currently imposed burden?

Mr. EVERSON. I think that's exactly what the intent is, that, as we roll this out to the other piece of the overall burden beyond the individuals, we will be able to do that, yes, sir.

Mr. OSE. I want to expand on that for just a minute. So, you're saying that the new model allows you to kind of go an either-or analysis, a comparative basis? You've got people behind you going like that.

Mr. EVERSON. Listen to them. Don't listen to me.

Mr. OSE. So you'll be able to game the system from an analytical standpoint and say, OK, if we're going this way, the burden is X, and, if we go this way, it's Y?

Mr. EVERSON. I think that's right, that we'll be able to check and see what the various ramifications will be, and it will obviously help us select the projects that we want to work on.

Mr. OSE. Could you be able to take it piece by piece so you can kind of take your base model and then put a piece in, take it out, and put it——

Mr. EVERSON. That's exactly right. If you only have a model that deals with lines, that gives you a very incomplete picture. This is a better model, but I'm not suggesting it is foolproof. Don't get me wrong here, but it's a lot better than what we had.

Mr. OSE. I just wanted to expand on that. I thank the gentleman.

Mr. SCHROCK. Dr. Graham, the 2002 Small Business Paperwork Relief Act required each agency to submit its initial agency enforcement report to Congress by the last day of last year, and, during our joint hearing on January 28th of this year, we displayed a chart showing 42 agencies—I don't know if we have that up or not—that had not yet submitted statutorily required reports. On behalf of the Office of Management and Budget, you agreed to followup with the noncompliant agencies. When will those missing reports be submitted, especially for Justice and Treasury Departments, both of which levy fines on small businesses? Can you provide an expected submission date for each agency for today's hearing record?

Mr. GRAHAM. Yes, sir. We will do so.

Mr. SCHROCK. Thank you, Mr. Chairman.

Mr. OSE. No doubt you can read this chart on this screen again?

Mr. EVERSON. It looks like one of my forms, I would say.

Mr. OSE. Dr. Graham, I want to go back to something and make sure I understand it. When we were conversing earlier, we were talking about paperwork reductions as opposed to regulatory reforms, and I want to make sure I've got it correct. You asked that we submit that question in writing regarding specific paperwork reductions that we've been able to accomplish. As it relates to regulatory reforms, your chart over here indicates significant success dealing with the manner in which regulatory issues are being imposed upon the American public relative to previous administrations. What I'd like to do is make sure I understand. You talked about 300 nominations from 1,700 submittals. Now, those 300 nominations were paperwork only, or they were regulatory—paperwork reduction or regulatory reform submittals?

Mr. GRAHAM. The public was provided the opportunity to nominate regulations, guidance documents or paperwork requirements that they felt were overly burdensome or for some reason or another needed reform.

We received 316 nominations from 1,700 commenters, and I note that most of the nominations dealt with regulation and guidance documents. Relatively few of them dealt with paperwork burdens.

Mr. OSE. So, then, my earlier question——

Mr. GRAHAM. Which is not to say that paperwork isn't important.

Mr. OSE. I understand.

Mr. GRAHAM. It's to say, as I was trying to argue, that the commenters realize that the paperwork burden is inevitably or often imbedded in the regulation or the guidance document.

Mr. OSE. All right. Our earlier conversation was about specific proposed paperwork reduction initiatives, to which we are going to send you a question in writing. My question right now is specific proposed regulatory reform initiatives that you have been able to identify within those 316.

Mr. GRAHAM. Right.

Mr. OSE. Could you provide us with a detailed list of that for the record?

Mr. GRAHAM. Yes, sir. Will do that.

Mr. OSE. All right.

Ms. Dalton, in your testimony there is a comment on page 10 that the paperwork reduction goals and means of achieving those goals were not articulated within the President's 2005 budget. Now, have you—or, excuse me, has GAO been able to find evidence of major new agency initiatives within the agency's ICB submissions? In other words, are the agencies proposing a whole bunch of stuff that you are seeing?

Ms. DALTON. Well, we have seen very few initiatives. When we looked at the 2003 ICB submissions, other than IRS, what we were able to identify were just 17 agency actions which reduced paperwork burdens 250,000 hours or more. For the entire government that's not a lot. We also haven't seen any plans or strategies that really would implement the President's initiative related to paperwork burden, which I think is along the lines of the questioning here.

Mr. OSE. Now, it may be that those initiatives are under development.

Dr. Graham, are we trying to count something that's not yet countable? Are we 9 months away from being able to count such numbers?

Mr. GRAHAM. No. Let me step back and say that you can think about the strategy of paperwork reduction as the plumber's approach, which is you get at each information collection request and you target it and you try to reduce frequency of reporting, etc. Or you can do what I'll call a systems approach, where you try to set in motion certain standards or guidelines that agencies have to follow and then agencies generate the paperwork reduction. Or, you use a public participation approach, where you ask the regulating community predominantly to tell you which of the specific paperwork requirements or regulations are in need of reform.

Our experience in this administration is that the most successful strategies for actually accomplishing reduction in burden due to regulation and paperwork are through the systems approach and through the public participation approach. We are not convinced that the plumber's approach at OMB in the final analysis, will get you very far. I think this is for a straightforward reason: we don't have the resources at OMB to be at that level of review on every single paperwork requirement.

Mr. OSE. Any of those paths is not mutually exclusive?

Mr. GRAHAM. Right. It's a mix, the question of what mix of those strategies to use.

Mr. OSE. Well, you can understand my confusion then. We talked earlier about a desk officer looking at these things coming through the pipeline. I presume that's kind of like the plumber approach?

Mr. GRAHAM. That's right.

Mr. OSE. OK.

Mr. GRAHAM. And, if that's your primary approach, you are in trouble.

Mr. OSE. Well, my point in asking whether they are mutually exclusive is to ascertain whether we vested all of our—we are laying

down all our cards on one or the other path. Now it looks by this chart as if we have invested quite a bit of our—or laid our cards down rather significantly on the comprehensive approach that's paired between the two of the three that don't fall under the plumber's thing.

Mr. GRAHAM. Systems approach, public participation.

Mr. OSE. Right. But, it would seem to me when you get to the technical or more mundane issues of what within a specific agency's form, whether it be Agriculture or Treasury or HHS or whomever, it seems to me when you have those forms that those agencies use having to cross a desk officer's desk and they are proposing a threshold of X, is someone asking the question whether or not that threshold is appropriate, or are they rubber-stamping them?

Mr. GRAHAM. That's a good question.

The kinds of things that we train our desk officers to look at are, No. 1, is this a new paperwork request or has this one already been reviewed previously? Certainly, new paperwork requests would get a more intensive review than would renewals of previously approved paperwork requests.

Mr. OSE. Logically. I understand that.

Mr. GRAHAM. The second thing that we would train a desk officer to do is ask, on a renewal request, have there been any significant changes in the nature of the approval request that might cause us to think we had better take a look at this? And, that's obviously a significant factor.

And, I think in the third case we are always looking in some sense at the overall magnitude of the collection. It is a new collection? It is an existing collection? What is the magnitude of it? And, as you well know, the big ticket items, the big dogs in this game are from the IRS.

Mr. OSE. Let's dwell on one that we have talked about in the past, whether or not we can incorporate into this or that agency's a line item that says no change from last year with a check box by it for people who otherwise have to fill out this or that form? Have the desk officers at OMB found any opportunity in any agency to suggest to an agency that they should add a line that says, "no change from last year," with a box they can check and sign the bottom and send back? Has any such activity occurred since we last had the opportunity to discuss this?

Mr. GRAHAM. Well, to be candid with you, the last thing I recall on this is you training me about the Bureau of Reclamation in the need of one of its forms to have such a box. I'm happy to work with my staff to find out whether we have made any additional progress. But, quite candidly, that's my memory of the quite sensible suggestion that maybe there should be a "no change" box.

Mr. OSE. Have you spoken with your staff or whomever that would then implement that kind of a question within the library of questions a desk officer would ask?

Mr. GRAHAM. Right. We are in the process now, in the systems approach to paperwork reduction, of developing basically a guidance document to agency paperwork reducers.

Mr. OSE. Training——

Mr. GRAHAM. Training materials. And, one of the logical things we should add, in fact, I'm going to go back and read our draft to

see if it's in there—is the question you just asked: Does this form actually provide an opportunity of no change from last year? That sounds like a sensible thing that should be in that guidance.

Mr. OSE. All right. Now, my time has expired. I've got to go back to Mr. Schrock. The gentleman from Virginia.

Mr. SCHROCK. Thank you, Mr. Chairman.

I'm really concerned about the IRS burdens on small businesses. In particular, Commissioner, Drs. Mark Crain and Thomas Hopkins said in their testimony here, or in a report they had in August 2001, that was commissioned by the SBA, found that small businesses spend twice as much on compliance as large companies. I think it's $1,202 as opposed to $562. Small businesses face more than 200 IRS forms, including more than 8,000 lines, boxes, and data requirements.

In the subcommittee's paperwork hearings in April 1999, 2000, 2001, and 2002, former IRS Commissioner Rossotti acknowledged there is much duplication of IRS's reporting requirements for small businesses as opposed to big business. What specific paperwork reduction requirements did IRS pursue in 2004 to date and will IRS pursue in the rest of 2004 to actually reduce the paperwork burden on small businesses as opposed to re-estimating taxpayer burden through a new model and notice redesigns and electronic filing and others? And, what is IRS's estimate for the burden reduction hours associated with those initiatives?

Mr. EVERSON. That is an important subject for us. Small business is something where there has historically been—I would characterize it as probably difficult relationships between small businesses and the Service. I believe things have gotten an awful lot better in the last several years largely through the reorganization of the IRS around customer lines of business, so that one of our four principal operating units deals with small businesses and self-employed people. So, we have now a more focused relationship with small businesses, a lot more education. I've met with people from the NFIB and other organizations that are helping us to address these issues, and we are much more sensitive to those challenges.

We have done a few things that I think you are familiar with. We mentioned the cars and meal allowances for day care providers. We have other things under way in terms of annualization of certain employment filings and redesigns of form 941 and others. All of these are bits and pieces that will contribute in the tens of millions of hours of burden reduction.

I will give you a comprehensive list of those for the record, but I don't want you to be under any impression that represents anything other than a starting point as we continue to go forward.

Mr. SCHROCK. So we will continue that process?

Mr. EVERSON. Absolutely. As I indicated in my opening remarks, our formula is: service plus enforcement equals compliance. Service has its element of communication, understanding and simplification where possible. If you can't understand the Code, and certainly simplification of reporting requirements helps understand it, then it's very hard to comply. So it's in our interest to make sure we continue to work on this.

Mr. SCHROCK. You work with NFIB closely on this?

Mr. EVERSON. Yes. We have an outreach organization within the small business division, and I meet from time to time with the leadership of these groups because they keep us pretty closely on point if we have a proposal or something that's going in the wrong direction, they tend to let us know, and they let us know from time to time from going to folks such as yourself.

Mr. SCHROCK. I think there are a lot of people sitting behind you who are listening very carefully.

Mr. GRAHAM. Mr. Chairman, could I just add? There was a lot of modesty in that answer that I would like to just cut through for a moment. This is the first year since fiscal year 1996 that overall paperwork burden in this country has declined. Why did it do so? If you look at this report carefully, it is the initiatives of the Internal Revenue Service that are driving that number. It hasn't happened very much. Only eight times in the last 24 years has overall paperwork burden gone down, and it has gone down because the Treasury Department and IRS have made some significant progress. Let's just cut through it and talk about what the specific facts are in this situation.

Mr. EVERSON. I would never quibble with OMB.

Mr. GRAHAM. Boy, he was different when he was at OMB, I will tell you that.

Mr. OSE. Will the gentleman yield?

Mr. SCHROCK. Yes, I yield.

Mr. OSE. Dr. Graham, are the totals due to adjustments in the estimates or are they true reductions?

Mr. GRAHAM. Good question. GAO has already testified that some substantial percentage of the overall reduction we experienced in the last year is simply due to adjustments without program effects. But, when you isolate the reductions due to program changes, which are still substantial overall and in the order of 50 million hours, what's driving those numbers predominantly is the Treasury Department and, in particular, the efforts of a rather substantial office within the IRS that's worried about the issues that this hearing is about.

Mr. OSE. I just want to make it clear. I'm trying to get to a position where I can brag about what you are doing.

Mr. GRAHAM. That's why I interjected, because this is a very different story this year than it's been in a very long time.

Mr. OSE. You are not talking about adjustments to estimates?

Mr. GRAHAM. There are separate estimates in here for adjustments and for specific executive branch actions, administrative actions; and they quantify the reductions due to those actions. Now, unfortunately—and I have to get one needle in—the reduction of 53 million was partly compensated, unfortunately, by a 100 million increase due to new laws passed by the Congress in that same year. But we should not take away from the Treasury Department and what they have done with regard to the 53 million hours.

Mr. OSE. I thank the gentleman.

Mr. SCHROCK. Ms. Dalton, I want to bring you on board with this, too, as we talk about the reduction of small business. How many significant program decreases of 250,000 hours or more did GAO find that IRS has made since the last hearing for small businesses? Is that possible to determine?

Ms. DALTON. There were three reductions that we could identify specifically related to the IRS that had a direct impact on small business, and I think it amounted to over 40 million burden hours in reduction. There may have been others, but they weren't specifically directed at small business but the more general business community.

Mr. SCHROCK. That's a lot. That's a lot of hours.

Thank you, Mr. Chairman.

Mr. OSE. Mr. Everson, I was—my curiosity was piqued. You were speaking earlier about employee reporting and employer reporting and the burden that comes with the 941 and the like. One of the things in the real estate business that I've learned to deal with is whether someone is an employee or an independent contractor. That's a serious question. There is lots of case law on it, lots of exposure for developer, whether they are an employee or a contractor kind of thing.

The National Taxpayer Advocate in the fiscal year 2003 annual report to Congress identified nonfiling and underreporting by self-employed taxpayers as the second most serious problem encountered by the IRS; and, as a result, the Advocate proposed a new requirement for what I think the Advocate described as employers to withhold payments in certain categories for nonwage workers or independent contractors. I presume they are referring to Social Security or withheld income tax and the like.

What I'm trying to find out was whether the Service, your office, has taken a position on the Advocate's suggestion in this particular area?

Mr. EVERSON. If you will indulge me for a minute to put this in context. The Advocate doesn't develop those numbers. We have a research organization that works to look at the whole tax gap; and the whole tax gap that the country confronts is over, by our estimate, a quarter of a trillion dollars a year. Now, again, this is a lot like a burden reduction model. It's based on an old model. It goes back to the 1980's. We are now, through new auditing, updating that model; and probably that quarter trillion dollars a year will actually be larger.

The President is aggressively attacking that tax gap, and we have a 10.7 percent budget increase requested for the IRS to go after improvement of compliance. Two-thirds of those moneys are directed at corporations and high-income individuals and to increasing criminal investigations. So that, to develop this sense of fairness, where we are devoting the bulk of our effort is at the higher end, because it is terribly important that individuals—and 80 percent of Americans feel this way—that the IRS enforce the law particularly in those sectors.

When you turn to the smaller businesses, it is true, as the Advocate suggests, that there is a big compliance problem there. I do not favor the recommendation that's been made. What I believe we need to do is to rebuild the enforcement resources of the IRS, which were drawn down after 1996 by over 25 percent. That's to say the number of revenue agents, revenue officers, and criminal investigators went down rather dramatically while we were continuing to improve our service side. If we do that and we do more on the com-

pliance side, we need to do that first before we would consider anything of the nature that she's suggested.

Mr. OSE. Well, I want to note for the record that the numbers that are the Advocate's recommendation are an estimate by the IRS of the tax gap at $310.6 billion for the year 2001.

Mr. EVERSON. That's correct.

Mr. OSE. So we're talking about what's estimated to be a lot of money.

Mr. EVERSON. It's over a quarter of a trillion dollars. That $300 is before about $55 billion that we get back in people who pay over time or through our enforcement efforts. The floor on this—and it's something that each Member of Congress needs to be very aware of as they review the President's budget request, and I ask for your support on that request—the floor of this problem is over a quarter trillion dollars a year. And, again, like the conversation we are having about the burden reduction model, it's based on old models that don't take into account changes in behavior for these abusive shelters, the internationalization, some of the things that have been happening in corporations, all of these abuses that we are very aggressively attacking. It's a serious problem, and it needs your help, if I could say so.

Mr. OSE. Well, the reason it caught my attention was that the Advocate's approach appears to be to require the 99.9 percent of the people who are in compliance with reporting, whether they use a 1099 or something else, to now have to undergo withholding and the like in their relationships with the general contractor, whoever it is they are working with; and that, to me, is a paperwork increase. So that's what caught my attention in terms of the Advocate's proposal.

I am pleased to hear you say that the better avenue for dealing with this is to reallocate resources to focus on those who are not complying, rather than to burden those who are.

Mr. EVERSON. That's absolutely, sir, what I am trying to do. We are improving our models for risk assessment so that we can devote resources to the proper challenges. We are redoing our enforcement processes to become more efficient. This gets into what Congressman Tierney was talking about before. As we reap the gains of improvement in processes on the service side, we are redeploying those to enforcement. We are very conscious of the need to augment our efforts through more money, and we are doing that where we need to.

Mr. OSE. I've learned to ask my question two or three different ways. So, are you saying that at present the Service does not have the intention of leveling on independent contractors a requirement for withholding?

Mr. EVERSON. That's correct.

Mr. OSE. My time has expired.

The gentleman from Virginia.

Mr. SCHROCK. Thank you, Mr. Chairman.

It just dawned on me. Commissioner, you said you have to use software to do your taxes. You probably understand how to do it better than anybody. Shouldn't we get to the point where the IRS is so user friendly and the forms are such that nobody has to use

any software, so John Q. Public out there can do his taxes without having to use software or anything else? Is that a fair question?

Mr. EVERSON. It's a very interesting question. Congress some years ago established——

Mr. SCHROCK. Not fair, but interesting.

Mr. EVERSON. Like anything approaching taxes, it's a complicated question.

Mr. SCHROCK. It is.

Mr. EVERSON. Congress some years ago set an 80 percent requirement for electronic filing by the year 2007. We are progressing toward that goal. I do not believe we will achieve it by 2007, nor do I think that we want to force that to happen. There are segments of the tax-paying public that are neither wired nor necessarily participating in large numbers, such as immigrants coming into our country. If we force people to go through a certain system, we will not actually be as user friendly in terms of bringing them into participation in our system. So, as we get closer to 80 percent, we need to very carefully assess when we mandate things or don't.

I do believe, on the other hand, that we will want to mandate soon electronic filing for corporations. We would have to establish a threshold for businesses before they would be required to do that. But, certainly the big outfits, they are all doing everything electronically anyway, and doing things by paper doesn't make any sense.

Mr. SCHROCK. But, the software is making it simple. Why can't the forms for those who can't use or don't want to use software or don't have the capability of using the software, why can't the forms be made as simple as the software?

Mr. EVERSON. We are improving the access to the electronic filing. We have something you may have heard of, the Free File Alliance. That's a group of over a dozen corporations, many of whom have these preparation businesses where they have developed this software. Now over 60 percent of Americans are eligible to actually file for free. They can go on IRS.gov and then get directed to a page which will help them pick out one of these corporations.

I did this with my son. We went to the Cherrydale library, and he just got his check back for $112 from the IRS and he filed for free. He was a bag boy at Safeway last year.

So that's working. And, this year it's over 3 million people so far have taken advantage of that option. It's up over 20 percent from a year ago.

Mr. SCHROCK. It's just breaking old habits and learning how to do that, I guess.

Mr. EVERSON. That's a piece of it. It's interesting to me—if you will indulge me 1 more minute. I was a little skeptical about just how this would continue to grow, the e-filing; the fact that it's up this year about 15 percent is quite striking. I think it may have reached a critical mass where more and more people are saying to neighbors, hey, look, this is the way to go. It really is a lot easier, and I got the refund in half the time. So, I have been pleased by the growth of it.

Mr. SCHROCK. My accountant has changed his whole paperwork procedures because of the electronic filing; and it was so easy for

Judy and me this year, I couldn't believe it. It took me about a third of the time, and——

Mr. EVERSON. That's right.

Mr. SCHROCK [continuing]. And I know my chances of going to jail are a lot less by filling out those forms.

Mr. EVERSON. Well, you make mistakes and the software says you didn't fill in box 7 or something. And, it's better.

Mr. SCHROCK. I think that's all, Mr. Chairman.

Mr. OSE. I've got a couple others. Before we leave this issue of tax preparation, from an electronics standpoint, are you able to take the K–1s electronically as well as the returns themselves?

Mr. EVERSON. I believe we have just started with the K–1s. I'm not entirely certain on that. But, what we just did was allow 95 percent of corporations to file electronically dozens of forms that just a couple weeks ago were all put on line. The 5 percent of the biggest corporations can't yet do that. By the end of the year, they will be able to do that.

I'm not sure about the K–1s. But the K–1s, what they are doing there is—believe it or not, this gets back into our compliance problems. Until a couple years ago, the IRS wasn't even entering K–1 data into our data bases so we didn't have any ability to match all of these complicated figures that were coming from these partnerships and flow-through entities and to see whether the taxpayer was reporting all the income or not.

Mr. OSE. Your testimony is that you are now able to cross-reference those?

Mr. EVERSON. Now, we are starting to do that. We are entering the data, but I'm not sure whether it's all coming electronically. That's the difference. We are entering the data, though; and, I believe it's still manually.

UNIDENTIFIED VOICE. But, it will be scannable so that they will all be able to be matched.

Mr. EVERSON. It will be scannable, but right now it is still a data entry process.

Mr. OSE. All right. I want to dwell on something that we have had to work our way through here.

In my opening statement, I talked about President Reagan's 1981 Executive Order 12291 which initiated OMB review of agency regulatory proposals. In effect, what happened was that there was a memorandum of agreement or understanding or whatever you want to call it between Treasury and OMB relating to regulatory reviews. I've got a copy of that agreement. I don't see anything in there and I'm not aware of anything subsequent to that that would suggest that OMB's review deals with anything other than form rather than substance of the statute dealing with taxes; and—I mean, we are all concerned about using the Tax Code for inappropriate purposes, but we are also—because you sit atop the regulatory behemoth, we are also interested in working with you to reduce the size of that regulatory requirement.

Does the memorandum of agreement, the memorandum of understanding, whichever it is, between Treasury and OMB allow OMB sufficient ability to review Treasury's paperwork without going to the point of unduly influencing who pays what?

Mr. EVERSON. I'm very comfortable with the situation as it exists today, which I believe to be consistent with those practices and consistent with what's been taking place really for the last 20 years. As we said some time ago, we are in compliance with the Paperwork Reduction Act, and that's because we go through a whole series of procedures even before we bring things to John's people. We take that effort very seriously. And, he says in his written testimony—and I agree with this entirely. He says, although the primary work and responsibility in this area resides in the IRS, OMB's review of recurrent submissions from IRS over a 20-year period has had a sentinel effect and contributed positively toward curbing excess IRS paperwork.

I agree with that. But when you get back to what John said before—and I would not call it tax policy. I would call it tax administration. When you get into the regulatory arena, you start getting into tax administration issues. I would not want to disturb where we are right now because we are in election season right now. You have already seen requests for IG investigations on some of the analyses that Treasury has done. God forbid if we went down a road where we would have more—even more back and forth on some of the independent calls that our folks are taking. So, I'm OK with where we are right now, and I think the relationship is just right.

Mr. OSE. Your testimony is that for 20 years the system has worked fine, that there hasn't been gaming of the system, that the reviews have been constrained not to policy but to form?

Mr. EVERSON. I do not believe that they have interfered with the IRS's ability to impartially and fairly administer the law. That's correct. But, I'm going to say—what I'll say is a little bit like your view of 2000. I've been on the job a year, and I can tell you in the year I've been here for sure that I've been very comfortable with everything.

Mr. OSE. All right. Dr. Graham, you are comfortable with the MOU in terms of how it relates to your role at OIRA and Treasury's reporting requirements?

Mr. GRAHAM. The way I would describe it is OMB has had an influence on Treasury and paperwork through the system's approach and through the public participation approach. The plumber's approach, which we do use quite aggressively on a lot of other agencies, is not used as aggressively on Treasury for the reasons that you and I talked about for several years. I'm comfortable with that approach, and clearly it's going to require something very significant both within the Congress and the administration to change that relationship. That's my reading of the situation.

Mr. OSE. Well, let me dwell on this a little bit. You and I have talked at length about whether or not OMB or OIRA, more specifically, has a person dedicated to Treasury paperwork and the like. Does OMB or OIRA have some such person, a desk officer, if you will you?

Mr. GRAHAM. Yes. In the last year we have had the IRS desk officer devoting closer to full time on this activity. And my deputy, Don Arbuckle, due to your interest and the Congress's interest, has been devoting more energy in this area.

The conclusion that we drew from that activity was that when you get into the plumber approach, you very easily get into what Mark has referred to as this tax administration or what I refer to as tax policy. And, quite frankly, our desk officers don't have an ability, if they would disagree with Mr. Everson's people to elevate that issue and get results because of the current nature of the relationship between OMB and Treasury. Until you provide our desk officers an ability to make an independent judgment and elevate when necessary, you don't really have the same relationship that you have with the other agencies.

Mr. OSE. That begs the question. The desk officer is there for some purpose. What is their job if—I mean, give us an example?

Mr. GRAHAM. It's a question of the degree. It's a question of the intensity.

Mr. OSE. Give us an example of what the desk officer could or could not do?

Mr. GRAHAM. I think that the examples of various terms that you gave in your own statement about the kinds of changes that can be made about the level of intensity of review we have on Treasury and IRS is different than other agencies precisely for the reason that you have said in that statement: the history of that relationship and the memorandum of understanding. So I don't want to represent to you that we are, in fact, doing the same thing on each one of those IRS proposals.

I think I can live with that arrangement in the current situation. I'm not suggesting that needs to be changed. But, you need to understand exactly the realities of what's going on so you can make your own assessment of that situation.

Mr. OSE. One of the things that I'm trying to get at is there are certain things that are defined by statute, like rates. The marginal income tax rate's pretty well defined by statute. But, there are other things dealing with periodicity of reports or reporting threshold requirements and the like which have been defined by regulatory decision, for instance. Are there any examples you can give to us where the desk officer at OMB has suggested back to Treasury that either the periodicity is too long or too short or that the threshold is too high or too low?

Mr. GRAHAM. That's a good question. If you give it to me in writing, I will try to get an answer to you.

But, you used regulation in your question——

Mr. OSE. I understand.

Mr. GRAHAM [continuing]. And the IRS interpretive regulations, which are the vast majority of the regulations that they issue, are covered by the memorandum of understandings. I hope you are not going to look for a long list of answers from me in response to that question. It's not just the Tax Code that is in a sense interpreted within Treasury without rigorous OMB review; it is also the interpretive regulations which implement the statute. We don't have the level of review on Treasury that we do on other agencies; and, as you know, it has a very long history and explanation for why that's the case.

Mr. OSE. But, just as I use the word "regulation" in my comment, you use the word "interpretive" in yours.

Mr. GRAHAM. Fine. Delete the word. Delete the word interpretive. Because most of the rules coming out of the IRS are—they would describe them in that way on the issues we are talking about here.

Mr. OSE. I'm not arguing the point about statutorily defined things. That's not my issue.

Mr. GRAHAM. I know. But the memorandum of understanding covers regulations as well as what's statutorily driven.

Mr. OSE. Well, the manner in which the regulation is interpreted evolves; let me give you an example. In 1980, we didn't have computers to speak of. Now, nobody competes without them. I mean, things change. It would seem to me that, over time, that the threshold of reporting as well as the periodicity within the report would evolve also, and what I'm trying to find out is whether or not we are, in fact, applying such a common sense standard to not the substance of the report but the submittal of the report, and what I'm unclear on is whether or not the MOU provides you with that opportunity?

Mr. GRAHAM. Well, what my staff tells me on this, who in the last year have had several meetings with IRS where they have worked through these issues, is that, compared to other Federal agencies, IRS, both in itself and at the Secretary's office in the Treasury, has a much more closer look at those set of issues, even the reporting issues that you just described, than most other paperwork-producing Federal agencies. So, in that sense, the need for an OMB plumber's approach is less even though IRS accounts for such a huge part of the overall burden.

Mr. EVERSON. If I could just add a point or two on this.

Mr. OSE. I was just coming to you.

Mr. EVERSON. We work very hard before we put a form out to focus groups and others. Just as John is saying, because of the direct impact that is so dramatic, it's subject to a lot of review and there is—to use a word you used earlier, there is a lot of transparency on all of this. So, I think we are attentive to it.

As John indicated, over the last year we have done more in the way of meetings that involve OMB, Treasury and the SBA, to try and push these things along. I would be concerned if we go beyond this because—I understand you are trying to limit this to the periodicity or threshold question, but you very quickly get into what you need to enforce the law, and that is a question that must be reserved for the IRS with some appropriate participation from Treasury.

Once you start to make a judgment that you don't really need that and someone from OMB is saying that, you run the risk that an administration could say: We don't really want to vigorously enforce this portion of a law or this law. And, I am uncomfortable with departing from really where we are because I think it is working.

I think, as OMB is indicating, we are making a legitimate effort here. GAO hasn't detected any violations of the Paperwork Reduction Act; so, at least mechanically, we are doing the right things. Do we need to do more here? Yes, sir, of course we need to do more here; and I will commit to you that we will continue to work to do more.

Mr. OSE. Well, let me examine then one aspect of this having to do with the quarterly submittal of 941. At some point or another you were able to determine that the periodicity four times a year can be lengthened. In other words, you are going to an annual report come January 1, 2006. OK. What can't that be 2005?

Mr. EVERSON. Why can't it be 2005? The IRS is a large, complex organization. One thing is for sure, we are neither speedy nor agile. I've been giving a great deal of push to our people to improve our processes, but when we do things we have to absolutely be 100 percent certain that we get it right.

We will look at that date again, but we have some changes that are being made for 2004 calendar year or tax year with filing in 2005. But, we have complicated systems, changes we need to make for processing all these forms. We can't afford to have a problem were things to go awry.

Right now, for instance, we are midway through our filing season preparations for next year. We are finishing up. We are working on all the returns right now, but we are looking at all the Code changes that we need to make to our computer systems to be able to file for next year. So, it does take a little bit of time.

Mr. OSE. So you have made the decision to go ahead and implement effective January 1, 2006 to go to the annual versus the quarterly?

Mr. EVERSON. Um-hmm.

Mr. OSE. Because I've seen some form up here in my papers. I mean, it's basically already printed out. Is that right? Well, that's not a form that's been approved by OMB? So OMB has approved?

Mr. EVERSON. I'm not sure of the specifics. I'll have to look at it and get back to you on the specifics of the mechanics. But we have identified this as an important thing to do that will help reduce the burden. We are looking at some other things. And, you have my assurance we're going to move as quickly as we can, but again we don't want to promise something we can't deliver.

Mr. OSE. So, if I'm correct then and I need to correct my statement, the proposed form to convert from quarterly to annual report on the 941, that has not gone to OMB—this is the question: Has that gone to OMB for approval?

Mr. EVERSON. I don't think it has.

Because, again, one of the issues you face here is when we make a change it doesn't usually only affect us. We have a lot of other stakeholders, be they the Census Bureau, Social Security Administration. This is a complicated web. When we collect data, it's used in lots of places. So, we do have a more cumbersome process that we need to go through on questions like this. So, we take the time to do that.

Mr. OSE. The gentleman from Virginia.

Mr. SCHROCK. Thank you, Mr. Chairman.

Let me go one other avenue here. I want to talk for a minute what steps the IRS is taking to improve the paperwork reduction performance.

First, with SES or SES employees, does the IRS now include paperwork reduction in their annual performance appraisals under their executive performance agreements, as the chairman had previously recommended? And, two, did the IRS make paperwork re-

duction a GPRA goal and target in its annual performance plan, as the chairman recommended? And, if not, are you going to do that and when?

Mr. EVERSON. We are just now in the process of finishing our strategic plan under GPRA, which will cover the years 2005 through 2009; and it has three overall goals: improving service, modernization of the IRS, and enhancing enforcement. As I indicated before, service for us means helping people understand their obligation and facilitating their participation in the system. So, this document will drive all of our annual operating plans over the next 5 years. And, it does, yes, include a component of simplification and cleaner notices. We want to go to our notices and make them be understandable to individuals. This has an impact on the burden reduction.

As we come into fiscal year 2005, which will be the first year under that plan, we will for sure have all of the annual goals as part of the President's management agenda, to the funding request we will follow these goals and also then the objectives for our business units and then the accountability of our officers to follow that. So, yes, that will be a component.

Mr. SCHROCK. Thank you.

Thanks, Mr. Chairman.

Mr. OSE. Mr. Everson, I have been beating this quarterly to the annual thing.

Mr. EVERSON. Mr. Chairman, I've already told you more than I know.

Mr. OSE. I'm through beating it. I think the horse is dead, but let me kick the cow over here a little bit.

Relative to the issue of thresholds within the information collected by the IRS, you have—or testimony last year was that there were a number of initiatives or analyses—there is a large analysis under way in terms of thresholds that the IRS may wish to change as it relates to reporting requirements, for instance, on Schedule B or Schedule C or what have you. You talked about that a little bit in your written statement in terms of this not-yet-completed analysis. What I'm trying to identify is whether or not you have a list of the discretionary thresholds that you are looking at and what the potential burden reduction may be from each of them?

Mr. EVERSON. We have a partial list. I'm aware of Acting Commissioner Wenzel's testimony about a year ago, shortly before I came into the job. What we initially did after that was go through the Code on a pretty deliberate basis to see what thresholds there were and whether or what could be revised through our own actions versus what would require statutory intervention, and I think we concluded over a period of months that was not an all-encompassing effort.

And, now we've redirected the efforts a little bit, and we're looking at areas where there aren't thresholds, and maybe some thresholds could be introduced to alleviate burden from folks who perhaps wouldn't need to file a particular form. We listed a few of those threshold initiatives.

In the testimony, we indicate this is going to be an ongoing effort that will take several years for us to do; and I think we will work our way through the different areas with a view of again not only

of looking at what's in law, because a lot of the thresholds, as you know, are actually in law, but also looking at this whole question of interpretive decisions that we've taken.

Examples are, as I understand it, looking at 1040 EZ or 1040A. Maybe we'd lift that threshold from—I guess it's $50,000 now to a higher level. Another example, as we have indicated, involves who would need to file officially for a 501(c)(3) exemption.

But, we want to be careful here. We have established four enforcement priorities. One of them is to make sure we don't have abuses within tax exempt and government entities. So, we don't want to do something to alleviate burden, to the charitable area that actually provides an avenue for terrorists or other people who are being abusive. So, because of that factor and because of all these linkages to other agencies and the Census Bureau and the use of our data, we have to be pretty careful.

Mr. OSE. Presumably these issues might fall into different groups: one, some that are pretty straightforward, some that are highly complex, and some that fall somewhere in between?

Mr. EVERSON. Yes.

Mr. OSE. Do you have any that fall into the fairly straightforward category and do you have a date by which some of those within this fairly straightforward category might be resolved?

Mr. EVERSON. I want to think about that and talk to our people as to what would fall into which bucket scenario.

Mr. OSE. Why don't I send you a question in writing?

Mr. EVERSON. That would be great.

Mr. OSE. OK.

Now, Dr. Graham, you and I have talked about this before, and I don't remember the answer. We talked about the initiatives within the respective agencies to improve their program performance by basically enhancing the information collection and by reducing burden on small businesses. And, you have, in response to my requests, asked these agencies to provide at least one new initiative in this regard. What I'm trying to inquire about is, why did we restrict it to—I'm kind of greedy. Why did we say only one? I mean, was it at least one or was it only one? It's my understanding that it was, I mean, you kind of threw it down and said, give me one?

Mr. GRAHAM. Well, I think one of the answers is, is that these burden reduction initiatives, in order to really make a meaningful difference, extend over 1 year. So, if you actually start a burden reduction initiative at time period one, you don't want that thing to be shut down at the end of that year as they start a new one. If you do a new one every year, over time you are actually carrying several of those. So I think, as a practical matter, our staff are engaging—what can we get out of these agencies but not push them so hard that they are basically not in a position to be responsive to us? So, it is that kind of balance.

But, let me try to get you more details on the level of responsiveness we have had and what we've been able to accomplish with that, and we will see if we can't push a little harder. We are open to that suggestion.

Mr. OSE. Well, I'm not quite——

Mr. GRAHAM. Not there yet?

Mr. OSE. So, it's not that I'm questioning that. It's just I want to make sure I understand. Are you asking agencies for one new initiative each year?

Mr. GRAHAM. Um-hmm.

Mr. OSE. So like it could be initiative A in 2003, but then in 2004 it's got to be initiative B?

Mr. GRAHAM. And, we don't want the first one to shut down.

Mr. OSE. That's my question. So they can run concurrently? They are not mutually exclusive?

Mr. GRAHAM. That's right.

Mr. OSE. All right. So in the 10th year, we will have at least some of them done, and we may have six or seven pending? Am I correct in my understanding?

Mr. GRAHAM. That's right.

Mr. OSE. All right.

Ms. Dalton, we didn't mean to ignore you. That was not our intention. I have to say, your written statement was comprehensive and very informative.

Ms. DALTON. Thank you, Mr. Chairman.

Mr. OSE. It's interesting to find third-party corroboration as to whether I'm right or wrong on some things. I have to compliment you. You were right on button. So I thank you for coming.

Ms. DALTON. Thank you.

Mr. OSE. Mr. Everson, Dr. Graham, we thank you for your appearance. We will leave the record open; and, as we'd indicated, there are a number of written questions we will be submitting to each of you. We would appreciate a timely response.

Dr. Graham, I'm not sure we are going to have this fun next year.

Mr. GRAHAM. I was about to say, we have let you have your last hearing on good news: Paperwork burden is down, 90 percent reduction in violations under this President and we have 80 percent reduction in the growth of the Federal regulatory state, part of the President's economic plan, thanks to tailwind. Thank you very much.

Mr. OSE. Well, you are doing the heavy lifting. I will be watching my remaining months, and I presume Mr. Schrock will be in behind me. So, again, we appreciate your effort.

Mr. Everson, we look forward to working with you in the days ahead.

We are going to take a 5-minute recess here. If the second panel could gather, we would appreciate it. Thank you all.

[Recess.]

Mr. OSE. All right. I want to welcome our second panel to our hearing today.

As you saw in the first panel, it's not a function of picking on you, but we swear everybody in. So, if everybody would please rise, raise your right hands.

[Witnesses sworn.]

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

Our second panel today to talk about the Bush administration's economic growth plan component for paperwork reduction is Mr.

Daniel Clifton, who is the Federal affairs manager for the Americans for Tax Reform. Welcome, sir.

He is joined by Mr. Paul Hense, who is the president of Paul A. Hense, CPA, from Grand Rapids, MI. He is testifying here on behalf of the National Small Business Association.

And, our third witness is the Chief Economist for the Small Business Survival Committee, Mr. Raymond Keating.

Gentlemen, welcome. We have received your written statements for the record. As you saw in the earlier panel, we go for 5 minutes, so you can summarize; and we appreciate your being here.

Mr. Clifton you are recognized for 5 minutes.

STATEMENTS OF DANIEL CLIFTON, FEDERAL AFFAIRS MANAGER, AMERICANS FOR TAX REFORM; PAUL HENSE, PRESIDENT, PAUL A. HENSE, CPA, P.C., GRAND RAPIDS, MI, ON BEHALF OF THE NATIONAL SMALL BUSINESS ASSOCIATION; AND RAYMOND J. KEATING, CHIEF ECONOMIST, SMALL BUSINESS SURVIVAL COMMITTEE

Mr. CLIFTON. Thank you, Mr. Chairman. It's great to be here today. Some of my testimony has been repeated earlier, so I will kind of summarize my written remarks.

My name is Daniel Clifton. I'm Federal affairs manager for Americans for Tax Reform. Our organization is a coalition of taxpayer and taxpayer groups from across the country that believe in lower taxes, fewer regulations, and free markets.

The timing of this hearing is very timely, given that last week was Tax Day. This is the most appropriate time for taxpayers to see the burden imposed on them by the government, both from a financial perspective and from a time perspective.

The good news is, from a financial perspective, taxes are lower this year due to legislation passed by this Congress and signed into law by President Bush. The average family is saving over $1,500 because of the tax cuts from 2001 and 2003. Just from last year's tax cut, a family of four making $40,000 had a 96 percent tax reduction, meaning they are virtually paying no taxes.

At the same time, the average refund this year will be over $2,000, and more than 14 million low-income Americans have been removed from the tax rolls and are now paying no taxes since 2005.

At the same time, this worked to boost the economy. The average gross domestic product has been over 6 percent since the tax cut was put in place. The stock market has generated $2.5 trillion of shareholder wealth.

Dividend issue is up 60 percent, and initial unemployment claims are down 25 percent, and jobs—700,000 jobs since the Tax Code has been put in place.

All in all, the tax cut is working. However, when we make these tax changes, it has made the Tax Code much more complex. In fact, as this hearing has found, 80 percent of the change in the entire Federal Government paperwork burden is through the IRS and the Tax Code. That's about 6.7 billion hours.

So, how do we get to this point? Our tax system was supposed to be a system where we raise revenue. Instead, it's become a system of new deductions, special interest provisions, with limits and qualifiers on existing rules, and that's what's adding to the paper-

work. The results of these actions have been to move the paperwork burden in the wrong direction even in the wake of the Paperwork Reduction Act. The fact is, we are now at a point of near collapse, and the system needs to be fixed.

It is my belief that both the IRS and the Office of Management and Budget have moved to make changes. However, this effort has been akin to running up a downward-moving escalator, trying to run up a downward-moving escalator. As minor changes are made that they reported on today, more complexity has been added, leaving a net increase in the burden.

In fact, since the passage of the Paperwork Reduction Act in 1995, the number of lines on the 1040 form has increased from 66 to 73, while the 1040 instruction page booklet has increased from 84 pages to 131 pages. Without question, the number of rules, limits, terms of conditions, and other qualifiers are increasing the paperwork burden on taxpayers.

A recent study by the National Taxpayers Union places this in context, "If the Treasury Department were to reduce its burden by the average amount mandated by the 1995 Paperwork Reduction Act, the burden would have declined to 3.702 billion hours in 2005. Instead, the Treasury overshot that target by 2.429 hours." The result has been a 15 percent increase from 1995 through 2000, instead of the mandated 31 percent reduction target set by the law.

This also has an economic cost. The Tax Foundation has reported that the cost of just complying with the Tax Code is $203 billion. To place that in context, that is larger than the revenues of America's second largest company, Exxon Mobil.

With the accelerating tax compliance burden, taxpayers are now spending 35 percent more time filling out their tax forms than 1995. Even the EZ file is significantly increasing. The tax complexity, as the IRS Commissioner testified earlier, also increases noncompliance. The best way to have compliance is to have a simple form that taxpayers are comfortable filling out. The growing tax compliance cost also places a negative drag on the economy by stifling productivity and allocating resources less efficiently.

Paid preparers are now up 60 percent since 1980 and 25 percent, so the Code has become the full employment act for creative accountants. This is redirecting the accountants away from productive activities like auditing Enron and instead making them try and find the deductions and loopholes that drive the cost up for all taxpayers.

I can go on all day with statistics about the growing complexity of the Tax Code, but I would like to use one example. There could be many, such as the alternative minimum tax, the business expensing provisions, but I want to talk about the savings provisions which are used by millions of Americans for retirement, education, and health care.

The IRS publication explaining retirement accounts is now 104 pages long. In 1982, that publication was just 12 pages. As a result of congressional action, there are now six different accounts, all with special and clever acronyms which make little sense to the mother who is worried about getting her children to band practice and a soccer game.

To participate, Americans have to know whether their income qualifies, how much money they can put in. The rules have become so complex you need a tax preparer to understand whether you can just participate in the program. This program is completely frustrating.

But, we have evidence simplifying it, as Ronald Reagan did in 1981, will increase participation. From 1980 to 1986, contributions rose after liberalization from $4 billion to $38 billion. When Congress restricted the deductibility of IRA contributions and added greater complexity, the level of contributions fell sharply and never recovered to $15 billion in 1987 and $8.4 billion in 1995. This affected families who weren't even affected by the regulations, but the complexity made it more difficult to figure out whether they could be included in the participation of the program.

Mr. OSE. Mr. Clifton.

Mr. CLIFTON. Yes.

Mr. OSE. Are you about to wrap up?

Mr. CLIFTON. Thank you.

Mr. OSE. That's a question.

Mr. CLIFTON. Just my recommendations are: Reform the Tax Code. It's the only way to do it. We can't keep making these quirky changes and then increasing the complexity. Thank you.

Mr. OSE. Thank you.

[The prepared statement of Mr. Clifton follows:]

Testimony of Daniel M. Clifton
Federal Affairs Manager
Americans for Tax Reform

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

April 20, 2004

Chairman Ose, Ranking Member Tierney, and members of the Committee, thank you for the opportunity to testify concerning the paperwork and regulatory impact placed on taxpayers by the tax code.

My name is Daniel Clifton and I currently serve as Federal Affairs Manager and Chief Economist for the Americans for Tax Reform. ATR is a non-partisan, not-profit coalition of taxpayers and taxpayer groups throughout the country dedicated to lower taxes, fewer regulations, and free markets.

This hearing could not have occurred at a better time. Last week was the passing of another Tax Day, the final day for taxpayers to pay their taxes to government. This is the most relevant time to discuss tax and regulatory issues as taxpayers become focused on both the time and money burden imposed by the tax system since they are filling out their forms and writing checks to the federal and state governments.

Over the past year the news for taxpayers improved on the *tax payment* side of the equation as the Jobs and Growth Tax Relief Reconciliation Act (JGTRRA) passed by this Congress and signed into law by President Bush provided the most historic tax relief to American taxpayers since the 1981 Reagan tax cuts. As you know, the legislation reduced income taxes for all taxpayers, increased the per child tax credit, cut the capital gains tax, slashed the double tax on dividends, and increased businesses allowances for purchasing.

According to the Treasury Department, 111 million individuals and families received an average tax cut of $1,586 in 2004 because of the tax cuts enacted in 2001 and 2003. A family of four earning $40,000 saw their taxes reduced $1,933 a 96 percent reduction. As of April 13th, the average tax refund was over $2,000 an increase of nearly 9 percent compared to last year. By next year's Tax Day, more than 14 million tax filers will have been completely removed from paying taxes since 2000.

The tax cuts were more than just providing tax relief to families as it spurred faster economic growth as well. The economy has expanded at a quarterly average of more than 6 percent since the tax cut has been put into place. Shareholder wealth has increased $2.5 trillion. Dividend issuance is up more than 60 percent as companies are now returning more cash to shareholders. Business investment has increased more than 10 percent per quarter. Initial unemployment claims are down 25 percent and more than 700,000 jobs have been created. All told, the tax cuts are working and have paved the way for strong economic growth moving forward.

Under President Bush's leadership, taxes have been cut three times in as many years, however, the tax cuts have also resulted in changes to the tax code that has increased the cost of tax compliance to taxpayers. In 2003, this hearing discovered that the Internal Revenue Service (IRS) paperwork burden accounted for an astonishing 80 percent of the entire federal government paperwork burden, roughly 6.7 billion hours.

So how did we ever get to this point? Our income tax system began as a system to fund the government, yet Congress and Presidents have continually used the system to fund new deductions and special interest provisions while putting limits and qualifiers on existing rules to

increase revenue or clamp down on cheats. The result of these actions has been to move the paperwork burden in the wrong direction even in the wake of the Paperwork Reduction Act. The fact is we are now at a point of near collapse and the system needs to be fixed.

It is my belief that both the IRS and Office of Management and Budget (OMB) understand this situation and have attempted to reduce unnecessary and duplicitous measures in the tax forms over the past several years. Yet, this effort has been akin to running up a downward moving elevator. As minor changes are made to reduce the burden on taxpayers, more complexity is added leaving a net increase in the burden.

In fact, since the passage of the Paperwork Reduction Act in 1995, the number of lines on the 1040 form has increased from 66 to 73 while the 1040 instruction page booklet has increased from 84 pages to 131 pages. Without question, the number of rules, limits, terms of conditions and other qualifiers are increasing the paperwork burden on working Americans and the U.S. economy.

A recent study by the National Taxpayers Union places in context the growth of tax compliance as it relates to the Paperwork Reduction Act. According to the report, "If the Treasury Department were to reduce its burden by the average amount mandated by the 1995 Paperwork Reduction Act, the burden would have declined to 3.702 billion hours in 2000. Instead, the Treasury overshot that target by 2.429 billion hours." The result has been a 15 percent increase from 1995 through 2000 instead of the mandated 31 percent reduction target set the by the law.

The Tax Foundation reported the cost to comply with the tax code in dollar terms last year was $203 billion, which was greater than the revenues of America's second largest company ExxonMobil. And this burden is growing. Since the Tax Relief Act of 1997, the cost of tax compliance has increased more than 25 percent.

With the accelerating tax compliance burden, taxpayers are now spending 35 percent more time filling out their tax form than in 1995 when the Paperwork Reduction Act was passed. In 1988, the IRS reported the average paperwork burden was 17 hours, today that same burden is 28 hours. Even the EZ file time requirements are significantly increasing.

Tax complexity also increases noncompliance with the tax code and non-filing as taxpayers become frustrated with the process. Others use the complexity to hide money and exploit loopholes. Taken together, this drives up the cost to all taxpayers.

The growing tax compliance also places a negative drag on the economy by stifling productivity and allocating resources less efficiently. The use of paid preparers is up more than 60 percent since 1980 and 25 percent since 1995 as a result of complexity. The code has become the full employment act for creative accountants.

This is redirecting accountants away from productive activities such as auditing companies like Enron to ensure markets are working properly and instead making them full time tax preparers. At the same time, more demand for tax preparers is driving up the cost for working families.

With resources allocated less efficiently productivity stemming from the tax law is declining. This stands in stark contrast to the rapid productivity experienced in the private sector. Private businesses have moved with speed to knock out inefficiencies while the tax code continues to place a drag on the economy as it grows out of control.

I can go on all day with stats on the tax code and compliance costs. But I would rather just examine how this affects the average American family. To illustrate how the growing complexity and paperwork burden impacts the average American family, Exhibit A are savings accounts used by millions of Americans.

The IRS publication explaining Individual Retirement Accounts (IRAs) is now 104 pages long – in 1982 the publication was just 12 pages. As a result of Congressional action, there are now six different accounts all with special and clever acronyms which make little sense to a working mother who is more concerned with getting her children to soccer and band practice than with the intricacies savings program rules.

To participate in the programs, average Americans need tax accountants to explain the programs exist, whether they qualify, and what are the limitations before they can even decide whether they will participate, which essentially requires them to have a preparer to be able to take advantage of Congress' well intentioned programs. Moreover, these families must pay for these services. Once they find out that they can participate in a program, say for education savings accounts, then they most likely can not make that contribution until the following year.

As you can see this process is frustrating and that stifles participation. In 1981 Congress liberalized the rules governing IRAs and as a result, IRA contributions exploded. As former Assistant Secretary of Treasury Pam Olsen mentioned in a recent speech, from 1980 to 1986, contributions to IRAs rose nearly ten-fold, from $4 billion to $38 billion. When Congress restricted the deductibility of IRA contributions in 1986 and added greater complexity, the level of annual IRA contributions fell sharply and never recovered to $15 billion in 1987 and $8.4 billion in 1995.

This regulation disproportionately hurt lower-income families. Among families retaining eligibility to fully deduct IRA contributions, participation declined by 40 percent between 1986 and 1987, despite the fact that the change in law did not affect them. The number of IRA contributors with income of less than $25,000 dropped by 30 percent in that one year.

Much of the efficiency and productivity from simplicity was lost and has not returned. Instead of returning to simplicity, thus fixing declining participation, new rules and provisions, as well as numerous and differentiated saving incentives added more complexity to savings. As complexity increases, the inability to standardize transactions grows, and thus, the cost of administration grows, which leads to lost efficiency, lost productivity, and lost savings.

This is just one of many examples of how the growing burden continues to overwhelm families and small businesses.

So how do we overcome the elevator problem mentioned above? How do we fix the problem facing the IRS of removing three lines and then adding six more because of Congressional and Administration changes?

In the immediate, Congress needs to significantly improve on the 1998 IRS Restructuring and Reform Act and the Paperwork Reduction Act. The 1998 law required Congress to consider complexity before enacting a tax law, however, it did not quantify the number. This should be upgraded to reflect the cost or savings of a proposal and be coordinated between the IRS Restructuring and Paperwork Reduction Act.

However, recommendations like this are just window dressing for what really needs to be done. Congress needs to move towards comprehensive, fundamental tax reform – tax reform that taxes income one time and one time only, while removing the special interest deductions. Tax rates need to be lowered, while increasing the tax base by lowering the deductions.

Under President Bush's leadership, this process has begun in incremental steps. Each tax cut has an element that brings the country closer to tax reform, whether it is lowering marginal tax rates, increasing savings contributions to IRAs, lowering and eliminating double taxation, or improving our international tax code. Without repeal of say the capital gains tax, complexity will always increase when we seek to lower this economic damaging tax.

Under this system, the hodgepodge of six different savings programs referenced above would be completely eliminated. So too would be the 102 page booklet describing the programs and taxes. Schedule D would be completely eliminated and taxpayers would need just one page to fill out their income, their standard deduction, the amount of taxes owed. The resulting simplification measure will increase compliance and boost growth. When Russia moved to a similar system in the late 1990's revenues soared as compliance increased.

Overall, the only real way to actually reduce the taxpayer paperwork burden is to fundamentally change the nature of our tax code back to its original purpose – to raise revenue to run the government.

Thank you.

Mr. OSE. Our next witness is the president of Paul Hense CPA from Grand Rapids, MI. That would be Mr. Paul Hense speaking on behalf of the National Small Business Association. Sir, welcome.

Mr. HENSE. I thank you for having me here. It's an honor for a small, humble CPA from Grand Rapids, MI, to be here to explain the role of the CPA in this end.

It's a little bit—everyone knows that a plague is a horrible thing unless you are an undertaker, and I hear all this conversation about the complexity of the Tax Code. I'm going to buy a new fishing boat in a couple months, and I was going to name it the Hense Fourth, because I'm the fourth of the Hense boys. I may change it at this time to the name of the AMT just in honor of what has made my business grow.

I'm a small business advocate, and I make fun of these things, but the reality of it is that I'm from where the rubber meets the road. I'm not a lobbyist. I'm not a politician. This is what I do, and I do it all year around. And, during tax season, I do it all day round.

It's an interesting business; I actually prepare the forms, 300-some tax returns. I do have a small office. I have three very good employees who help me get through this stuff.

The problem that I see is, the problem isn't with the Internal Revenue Service. The problem is with the laws that are delivered to them to put into some format that works.

It's akin to giving somebody a couple of tin cans and some barbed wire and say, make me a Mercedes out of this. You know they can't do it. You give the IRS incomprehensible tax laws and ask them to put it into a simple format, it ain't going to happen.

The worst area that this happens is in the area of 401(k)'s as an example, where, for some reason, some decision was made in the last 25 years that, if you're in a large business, you should be able to put lots and lots of money into your pension plan; but, if you're a small business, by the nature of your complexity, you're not going to get those same pension benefits.

Same way with the section 125 plan. The owner of the business for some bizarre reason, in a small business, can't have the same benefits that the employees can have. So, I'm assuming this kind of happened accidentally, but it makes no sense. The alternative minimum tax—I spent an hour and a half with the business editor of the Grand Rapids Business Journal on April 11th trying to explain the alternative minimum tax to her, and after an hour and a half we gave up, because she did the best she could, but it's incomprehensible. And, frankly, to me, that's a profitmaker.

Depreciation, for a client, a small business client, you have to have maker's depreciation for the tax return. Then you have to remember if you're going to take the bonus—if you're not going to take the bonus depreciation, you have to file a statement saying you're not taking it. Then, you have to have alternative minimum tax depreciation, and then, for your financial statements for the bank, you have to have book depreciation. I love it. But, the problem is, in the long run it's a bad thing.

The effects are the small business owners often don't have 401(k) plans. They will have a simple plan which is very limited in what

you can put into it. They won't have a section 125 plan, because why would they set up something they can't contribute to?

The real proof in this to me—people come in here and they talk about they have numbers. I don't have exact numbers. All I can tell you is ADP, H&R Block, and Paychecks are growing like crazy. Their revenues are up by billions of dollars over the last 3 or 4 years, and they're projected to go up by more billions of dollars. At the same time, we're losing our manufacturing base; why shouldn't that money be going for research and development and to build new factories and buy new equipment and hire more people? It's coming to me, and I'm not sure that's the best thing, and people who do what I do.

There's another thing. We'll have somebody come into our office who wants to start a business, and often they're not—you know, they're not going to get a lot of sympathy for somebody driving a Mercedes, making a lot of money, over the problems with the tax issues. But, how about somebody who wants to get off welfare and start a business or get out of a menial nothing job and get into owning a business? And, by the time they get done talking to me, they decide they don't want to do it, because by the time they get done with the paperwork requirements, the tax requirements—and one of the things I want to tell you, I'm a small business consultant. Don't hire people. The software for fundamental accounting is about $125. Add payroll, you add another couple hundred dollars to your software program, because payroll is a big complication. Once you've got payroll, then you've got worker's compensation. Then you've got Federal unemployment or whatever State's unemployment. You've got this organization, that organization. So, what do you want to do? You want to subcontract it out, as had been discussed earlier relative to real estate development. So, then you can run a file of the IRS doing that.

So, in the proposal I was delighted with the head of—the IRS's statement on the 1099s, the withholding. How would you ever figure out how much to withhold, from whom, who is going to pay it, who is going to get it and how, what form are you going to fill out, on and on and on? Made my heart just warm up knowing that they're not going to do that.

The summation is really kind of simple——

Mr. OSE. Mr. Hense, actually I think he said they had no current plans to do that.

Mr. HENSE. Well, yes, but I'm sure it will stay that way. I mean, what would influence them to change?

This tax system is broken beyond repair. This can't be fixed. I believe politically—and I'm a CPA, so I'm a CPA talking about politics, so take it for what it's worth. But, I don't think this can be fixed, because it's so broken that to fix it would be impossible. So, I guess it has to be scrapped.

Five years from now, please—I'm 61, and if you'll wait, I can get Social Security in 5 years and 10 months. If you're going to fix it, fix it then, not now. But, it can't be fixed, and so there are discussions about a national sales tax, value-added taxes, on and on and on. There are pros and cons to everything. We could sit here and argue forever, as the argument in the Middle Ages was how many angles can sit on the point of a pin? Who knows? What is the right

tax system? Smarter people than I will decide that, but this is not the right tax system.

Mr. OSE. Thank you, Mr. Hense.

[The prepared statement of Mr. Hense follows:]

TESTIMONY OF PAUL HENSE
PRESIDENT
PAUL HENSE CPA, P.C.

"What is the Bush Administration's Economic Growth Plan Component for Paperwork Reduction?"

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

April 20, 2004

Introduction

I would like to thank Chairman Ose, Ranking Member Tierney and the other members of the House Committee on Government Reform, Subcommittee on Energy Policy, Natural Resources and Regulatory Affairs for the opportunity to testify before you today. My name is Paul Hense and I come to you today from Grand Rapids Michigan. I am the President and owner of Paul Hense CPA, P.C. an accounting practice with a primary focus on small business and personal tax and financial advising. I sit on the board of the Small Business Association of Michigan, participate in the Grand Rapids Chamber of Commerce CEO roundtable and write a weekly column for the Grand Rapids Business Journal.

I also come before the committee today as a board member of the National Small Business Association (NSBA). The National Small Business Association, formerly National Small Business United, is the nation's oldest bipartisan advocate for small business. NSBA represents over 150,000 small businesses in all fifty states. Our association works with elected and administrative officials in Washington to improve the economic climate for small business growth and expansion. In addition to individual small business owners, the membership of our association includes local, state, and regional small business associations across the country. The goal of our association is to protect and promote our members and all of our nation's small businesses before Congress and the Administration. Before I start, I'd like to recognize the exemplary work of this committee under the leadership of Chairman Ose and Vice Chairman Schrock – you are friends to NSBA and we thank you for your efforts on behalf of all small businesses.

Overview

As most small businesses will tell you, compliance with federal regulations is difficult, time-consuming and costly. As the Office of Advocacy will tell you, federally mandated paperwork equates to eight billion hours, with the IRS accounting for 80 percent of that figure. Small businesses are at a severe disadvantage, facing costs of nearly $7,000 per-employee just to keep up with regulatory and paperwork burdens, almost 60 percent higher than what large businesses pay.

By their very nature, unnecessary federal regulation and paperwork burdens discriminate against small businesses. Without large staffs of accountants, benefits coordinators, attorneys, or personnel administrators, small businesses are often at a loss to implement or even keep up with the overwhelming paperwork demands of the federal government. Big corporations have already built these staffs into their operations and can often absorb a new requirement that could be very costly and expensive for a small business owner.

Small businesses rely heavily on the following for help.

> RFA – The Regulatory Flexibility Act, passed in 1980 directs federal agencies to consider the impact of new regulations on small businesses. Agencies must

analyze alternatives that would minimize impact on small-businesses and make those alternative analyses available for public comment. It is important to note that the RFA, along with small business collectively, does not seek special treatment, merely equal treatment and consideration under the regulatory process.

SBREFA – The Small Business Regulatory Enforcement Fairness Act, enacted in 1996 amended the RFA to give small businesses increased involvement in the regulatory process. The Chief Counsel for the Office of Advocacy, under this law, has the authority to file amicus briefs on behalf of small business when an agency is non-compliant with the RFA. SBREFA also enhanced the congressional role in major regulations as well as mandating issuing agencies to provide compliance assistance with any proposed rule.

SBPRA - The Small Business Paperwork Relief Act, passed in 2002, requires the Office of Management and Budget (OMB) to publish an annual list of compliance assistance resources, mandates each federal agency to establish a single point of contact to act as a liaison for small business, and to work on paperwork reduction. SBPRA also requires agencies to report to Congress on enforcement and abatement actions against small businesses as compared to large businesses.

Office of Advocacy – The most important government entity for small businesses, the Office of Advocacy is the federal government's primary watch-dog for small businesses. Charged with analyzing the role of small businesses in the economy, pursuing policies that support small business growth, and ensuring that small firms are heard by the federal government, the Office of Advocacy's role in regulatory relief is vital. Executive Order 13272, signed by President Bush in 2002, enhances and solidifies Advocacy's role of ensuring that regulations are reasonable and fair to small business.

Everyday Complexity

From the very beginning an entrepreneur faces an amazing array of complex tax based compliance requirements that can serve to muffle or dissuade the desire to strike out on their own. It is instructive to briefly examine the mounting tax compliance requirements that pile up as a business grows.

At the most basic level, an individual who decides to give up the predictability of an employer's paycheck can begin as a sole proprietor. The sole proprietor soon learns that the days of simply filing a 1040 with the IRS are gone. The new business owner is now responsible for both furnishing and filing information with the IRS. As a pass-through entity, the business owner must calculate their own Social Security and Medicare taxes and report them on Schedule SE for form 1040. Owners must keep track of business expenses and file deductions on Schedule C for form 1040. Owners who are involved in a simple partnership must report earnings on a Schedule K-1. Sole-proprietors must also file estimated quarterly payments with the IRS.

A business owner who decides that they want the benefits of limited liability protection and forms a Subchapter S corporation or Limited Liability Corporation increases both their startup costs and IRS paperwork burden. In addition to reporting salary on form 1040, owners must report dividend income on an attached Schedule E. Since the corporation is a separate entity, owners must report corporate income on form 1120-S. Owner's individual stake in the corporation must be recorded on Schedule K. Dividend disbursements must be submitted to the IRS on form 1099-DV. Owners who form a traditional C corporation face similar filing requirements as those who operate S corporations but with additional levels of taxation.

When an owner takes on employees the paperwork situation rapidly escalates. Employees must be issued W-2 and W-4 forms to enable income tax withholding and reporting. W-5 forms begin the long and involved process of providing the Earned Income Credit to eligible employees.

Social Security and Medicare withholding creates great complexity and serious liability concerns for employers. Employers must file quarterly payroll tax returns on form 941 and ensure that all payroll trust funds are in perfect order or face severe personal penalties.

Federal Unemployment Tax (FUTA) must be reported on form 940 and calculated quarterly. An owner's FUTA requirement will be affected by varying state unemployment tax rates.

Owners who wish to provide their employees or themselves (when possible) with fringe benefits further increase the amount of paperwork and liability they face. Section 125 accounts, qualified retirement plans, group life insurance and other benefits increase costs to employers and require special reporting measures.

The Alternative Minimum Tax in both its personal and corporate form continues to be selected by those business owners brave enough to attempt it on their own as some of the most burdensome and complex calculations required by the IRS. While the small corporation exemption is welcome, the IRS must continue its efforts to notify small businesses of their eligibility. As noted in a Treasury Inspector General for Tax Administration report from 2003, (Reference number 2003-30-114) over 3,600 taxpayers have paid more than $37 million in corporate AMT even though they were eligible for exemption. For those that do not qualify for the exemption, pages of calculations and varying depreciation tables relegate AMT reckoning almost exclusively to computer programs.

Statutory vs. Administrative

Now, while I will tell you time-and-again that the underlying problem with tax paperwork is a painfully complex tax code, I must tell you that there are a number of administrative steps that can and should be taken. In past hearings with this very committee, the National Small Business Association has testified on the difficulties with

regulatory compliance. Chairmen Ose and Representative Schrock, have both agreed that the problem needs to be dealt with.

In January, when my colleague, Harold Igdaloff, testified, he told me that he perceived a lack of accountability on the part of the agencies. Granted, this wasn't inclusive of the IRS, but when we have various laws mandating agency compliance, we cannot simply shake our heads and allow agencies to continue disobeying the law simply because there isn't an agency or administrative office willing to take on the job of enforcement. The Office of Information and Regulatory Affairs (OIRA) has taken some leadership in dissemination and collection of information with the agencies, but seems unwilling or unable to act as the enforcement mechanism small businesses deserve.

NSBA has supported and will continue to support the following broad-based approach to reducing IRS paperwork. First and foremost, the IRS must actively seek ways to eliminate duplication of paperwork. In discussing our recent April 15th deadline, former witness to this committee Igdaloff noted that his tax returns weighed a pound and a half. As one of the few small business owners who still does his own taxes by hand, I can assure you this took valuable time away from his business. We also support and urge compliance assistance without the threat of penalty. I am confident that many more small businesses would seek assistance if there were guidelines established to prevent an overzealous agency from severely penalizing the small business seeking to right a wrong. I want to note that the IRS has been good to small businesses in that aspect. According the IRS FY 2003 Regulatory Enforcement Report, nearly 68 percent of all abatements made were to small businesses. Finally, an increase in the importance of burden reduction will help exponentially. Giving OIRA the tools necessary to work on agency enforcement is a good start.

Now, since I am all-too-willing to criticize, I want to also relay to you some of the improvements NSBA members have commented on. The IRS Web site is improving, the ease by which we can find answers and solutions is increasing. E-file has significantly helped many of our members and we applaud your efforts on that. Efforts to reach out to the small business community and trade associations have sparked valuable dialogue. However, please keep in mind that repetition is still a problem. There are a multitude of computer programs for the sole purpose of completing tax forms. So while it is an annoyance for tech-savvy small businesses, imagine the difficulty a small business owner faces without a computer.

The Role of Congress

Regulatory solutions can only take us so far. It would be incorrect to conclude that the IRS was the sole source of paperwork burden for small business owners. In reality, we know that, while they can be a difficult and intimidating organization to work with, the IRS is carrying out the intensions of Congress.

A 2001 CATO report by Chris Edwards titled "Simplifying Federal Taxes" documented the startling growth of the Internal Revenue Code (IRC). According to the report, the

IRC has grown from 500 pages in 1913 to over 45,662 pages in 2001 with an astonishing 51 percent of the growth occurring since 1986. In the same period since 1986 there have been over 7,000 changes to the IRC with the vast majority of those changes affecting businesses. To keep up with these changes, the IRS website encourages tax professionals to review the Internal Revenue Bulletin for updated changes to rules. This is a weekly publication ranging from 45 pages to 260 pages per issue

It is beyond belief that any full time entrepreneur, who should be focusing on growing their business, could devote the time necessary to keep up with IRC changes. Evidence supporting this fact is the explosive growth in tax preparation and consulting services for both consumers and businesses. Since 1993, H&R Block has seen a 253 percent increase in revenues from its tax preparation services.

Lawmakers have also begun to readily adopt taxes that are phased in and phased out to improve the cost estimates for proposed legislation. While many of the tax changes exposed to these phase outs are positive developments for small businesses, a constantly changing tax landscape only makes long-term planning more difficult and serves to increase filing and paperwork burden.

The worst offenses are tax laws passed by Congress that place small business operators at a disadvantage. Many areas of the IRC, either unintentionally or on purpose, act as disincentives for people who might wish to start their own business. Many cases are documented in NSBA's report "The Internal Revenue Code: Unequal Treatment Between Large and Small Firms." Examples of inequities written into the law include statutes that prevent business owners using a SIMPLE 401(k) from saving as much for retirement as participants in a traditional 401(k), the exclusion of business owners from participation in Section 125 plans along with their employees and the Self-employment tax on health care.

The Tax Code is Broken

The tax code as it currently exists is unacceptable. Compliance costs are a dead weight loss to the economy. Complexity harms those looking to create businesses and aids those looking to avoid paying their fair share. The code decreases our national competitiveness and exposes us to international tax disputes like the Extraterritorial Income Exclusion Act rewrite currently before Congress.

It is understandably difficult for Congress to resist trying to fix small parts of the code in fits and starts. Many organizations like our own have legitimate quarrels with the IRC. However, the continuation of small fixes only further degrades the entire system.

Many proposals before Congress provide for fundamental tax reform that would vastly reduce compliance costs for individuals and businesses while collecting government revenues in a more efficient manner than we have today.

The Tax Reform Action Commission (TRAC) Act (H.R. 3215) proposed by Representative Jim DeMint would create a bipartisan commission to explore fundamental tax reform. The commission's recommendations would require expedited action from Congress serving to spur the debate on fundamental tax reform. I encourage all members of the committee to support H.R. 3215.

A better approach would be the adoption of the Fair Tax. The Fair Tax (H.R. 25), introduced by Representative John Linder, would repeal the entire IRC and replace it with a single rate national sales tax on the purchase of all new goods and services at the final point of consumption, while providing a rebate to families equal to the cost of essential goods and services. The Fair Tax would collect the same amount of tax revenue as current law while allowing consumers to see the actual cost of government with every purchase. The Fair Tax would do away with complicated tax returns and depreciation tables freeing individuals to spend their time more wisely.

Fundamental tax reform is an important goal for the future. I hope that members of this committee, while focusing on the important task of reducing regulatory burden, keep the ultimate goal of tax reform in mind.

Mr. OSE. Our next witness is the chief economist for the Small Business Survival Committee, Mr. Keating. Welcome to our subcommittee. You're recognized for 5 minutes.

Mr. KEATING. Thank you. I appreciate it. I never thought I'd have to be concerned about following an accountant, but apparently I do.

Thank you for the opportunity to speak here today. I serve as chief economist for the Small Business Survival Committee, and we're a small business advocacy group with some 70,000 members across the Nation. The idea that small businesses serve as the backbone of the U.S. economy is not mere rhetoric, it's economic reality. We've heard various statistics over the years. More than 99 percent of all employers are small businesses. They employ more than half of the private sector work force. They create 60 to 80 percent of the new jobs each year, generate 51 percent of the private sector output, and account for 96 percent of all U.S. exporters.

Nonetheless, the entrepreneurial sector of our economy must overcome many obstacles, costly obstacles inflicted by government. The costs of taxation generally fall within three major categories. The first and most obvious is the amount of resources extracted from the private sector for use by the government.

Second, taxes impose a significant cost in terms of lost or redirected economic opportunity and activity. And, third, what we're here to talk about today are the costs of regulation, compliance, and collection.

Unfortunately, regulatory costs, including tax compliance, hit small businesses hardest. That was illustrated by Mark Crain and Thomas Hopkins in their 2001 report for the Office of Advocacy. The per-employee cost of Federal regulations registered almost $7,000 for firms with fewer than 20 employees, compared to $4,700 for all firms. Tax compliance per employee costs came in at $1,202 for firms with fewer than 20 employees compared to almost double the $665 for all businesses.

One recent survey by the National Federation of Independent Business noted that paperwork and recordkeeping cost small businesses $48.72 per hour, with tax-related costs as the most expensive at $74.24 cents per hour.

Another estimate, another study, noted that tax compliance costs for the entire economy came in at a staggering $203 billion in 2003, and that's about 2 percent of U.S. GDP.

Again, the small business owner, the entrepreneur, gets hit hard. A 2003 analysis of compliance costs on individual tax returns performed by the IRS—and it was with consultants from IBM—they found that, while self-employed taxpayers represent only 25 percent of all individual taxpayers, they experience 60 percent of the time and money burden in terms of compliance. And, it was also determined that tax return complexity is markedly higher for self-employed returns.

I spoke to a few business owners last week in preparation for these hearings, and I asked them about government paperwork and taxes in particular, and I got a lot of anger and resignation, frustration, all of those things, but they noted that the costs were paid one way or another. They either had to have outside accountants or lawyers—or hire staff internally to deal with the paperwork the

government inflicts. And, the question here from an economic standpoint is what would those resources be used for if not lost on paperwork? The same question goes for making tax compliance somewhat easier with tax software. I do that myself, but the question is, what would all those software writers be doing if they didn't have to deal with the messy Tax Code?

So, what can be done? First, it's got to be acknowledged that complexity starts with the Code itself. In its 2000 report to Congress, the National Taxpayer Advocate noted that the top two problems facing taxpayers were complexity for individuals and complexity for businesses. That complexity arguably has increased since then. Consider the 2001 and 2003 tax cuts passed by Congress. These had enormous positive benefits for the economy, particularly through reductions in personal income, capital gains, dividend tax rates, and the eventual elimination of the death tax. At the same time, though, the phase-ins and phase-outs of these tax measures have added to the system's complexity and costs, as well as creating economic uncertainty.

An obviouis answer is to make these tax cuts permanent, but over the long haul we need to look at a fairer, simpler, less costly, and more pro-growth tax system. Also, Congress needs to zero in on current major sources of complexity.

My colleague mentioned the AMT. I have various statistics in my written testimony about the cost of the alternative minimum tax for individuals. We agree with the National Taxpayer Advocate in recommending the repeal of the individual AMT, and quite frankly, we'd like to see the corporate AMT go as well.

Third, we don't want to make things worse. We don't want to see the current system get worse. One area that was mentioned earlier where we strongly disagree with the National Taxpayer Advocate in the latest report to Congress was the recommendation for Congress to implement a mechanism to withhold on certain categories of nonwage workers. There are costs involved for those having to deal with withholding. It complicates taxes on both ends, and it really doesn't, in my view—I don't see how it accomplishes much in terms of conforming to the Tax Code.

In addition, it's important to understand withholding comes with economic costs. Business owners, perhaps better than anyone else, understand the true costs of government because they have to quarterly write out that check to the Federal Government and to their State governments. So, they understand the costs of government. I think that's important for voters and taxpayers to understand that. When you have withholding, that's lost on a lot of people. They look at what the take-home pay is and forget what the total pay is in terms of what they should be receiving.

There are other suggestions that we have. I see my time is up. We obviously would like to see the Tax Code—the IRS make it—their instructions easier, clearer, use plain English, correspondence. Please use plain English. Perhaps we mentioned in the written testimony, enhance visual aids, you know, give somebody the opportunity to see something in a different way, an easier way than perhaps just jam-packed with text and pages and pages of material.

We also think the Taxpayer Advocate Service needs to better get the word out in terms of its duties in representing taxpayer interests and formulation of policies and procedures and identifying and developing proposals for simplifying the Tax Code and reducing taxpayer burden.

Thank you for this opportunity. I look forward to any questions you might have.

Mr. OSE. I thank the gentleman.

[The prepared statement of Mr. Keating follows:]

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

April 20, 2004

Paperwork Reduction Act and Tax-Related Costs on the U.S. Economy

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Thank you for this opportunity to speak before the Committee today about various costs of the current tax system. My name is Raymond J. Keating, and I serve as chief economist for the Small Business Survival Committee (SBSC). SBSC is a nonpartisan, nonprofit small business advocacy group with 70,000 members across the nation.

The idea that small businesses serve as the backbone of the U.S. economy is not mere rhetoric. It is economic reality. As the U.S. Small Business Administration's Office of Advocacy has noted, small businesses:

• account for more than 99 percent of all employers;
• employ more than half the private-sector workforce, while creating 60 percent to 80 percent of new jobs each year;
• generate 51 percent of private sector output; and
• account for 96 percent of all U.S. exporters.

Nonetheless, the entrepreneurial sector of our economy must overcome many costly obstacles inflicted by the government.

The costs of taxation generally fall within three major categories. First, and most obvious, is the amount of resources directly extracted from the private sector for use by the government. So, a small business, for example, will have to pay income, property, sales, estate and a wide array of other taxes and fees imposed by federal, state and local governments. These dollars handed over to government mean that they are not utilized by the business, for example, as profits for the owners, as wages or benefits for employees, or as investment for expansion purposes.

Second, taxes impose a significant cost in terms of lost or redirected economic opportunity and activity. As the old saying goes, the more you tax something, the less of it you'll get. Therefore, high income taxes translate into less working, saving, and entrepreneurship. Capital gains taxes discourage investing and risk taking. Indeed, the incentive effects of taxation are quite powerful, and burdensome taxes restrain economic growth.

Third, there are the costs of regulation, compliance and collection with the tax code. Included in these costs are the time spent planning, record keeping, mastering tax instructions and forms, and the costs for staff, accountants, lawyers, financial planners and software, along with the government's expenditures for creating and enforcing the law, and collecting taxes. This third item is what we are focusing on today.

Unfortunately, regulatory costs – including tax compliance – hit small businesses hardest. That was illustrated in a 2001 report by economists W. Mark Crain and Thomas D. Hopkins for the U.S. Small Business Administration's Office of Advocacy. The authors found that the total costs of federal regulations hit $843 billion in 2000, or about 8 percent of GDP. The per employee cost of federal regulations registered $6,975 for firms with fewer than 20 employees, compared to $4,722 for all firms. Tax compliance per employee costs came in at $1,202 for

firms with fewer than 20 employees, which was almost double the $665 per employee cost for all businesses.

The costs of the federal regulatory burden actually exceeded corporate pretax profits in 2001.[1]

The number of pages in the *Federal Register* provides a signal as to the growth in new regulations, and in 2003, the page count hit 75,795, the highest ever and up from 65,500 in 2001.[2] The budget cost of writing and enforcing federal regulations has been estimated at $29 billion in FY2004, with government staffing levels of more than 192,000.[3] After examining the overall economic cost estimates for federal regulation and government expenditures on regulatory activities, Susan Dudley, director of the Regulatory Studies Program at the Mercatus Center at George Mason University, has noted that "for every dollar of direct budget expenditure devoted to regulatory activity, the private sector (individuals as consumers, investors, workers, etc.) spends $45 in compliance."[4]

Another recent report noted that paperwork and record-keeping cost small businesses $48.72 per hour, with tax-related costs ranking as most expensive at $74.24 per hour.[5]

It has been noted many times that the federal tax code is 17,000 pages long and includes more than 1,100 forms and publications.[6] Individuals and businesses submit more than 200 tax returns to the IRS each year, and in FY2002, the IRS's budget reached almost $10 billion.[7] One estimate of tax compliance costs pointed to a staggering $203 billion in 2003.[8] That equated to almost 2 percent of U.S. GDP.

The government recently announced that it took individual taxpayers, with itemized deductions and income from interest, capital gains and dividends, 28 hours and 30 minutes, on average, to complete their tax returns this year – 42 minutes longer than last year.[9] Since 1988, this time dedicated to tax preparation increased by 67 percent. These estimates include time spent record gathering, reading and preparing the forms and sending them off to the IRS.[10] Please note that it does not include tax planning that occurs throughout the year.

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[1] Clyde Wayne Crews Jr., "Ten Thousand Commandments: An Annual Snapshot of the Federal Regulatory State," Cato Institute, 2003 edition.
[2] Susan E. Dudley, "The Hidden Tax of Regulation," Mercatus Center at George mason University, January 5, 2004.
[3] Ibid.
[4] Ibid.
[5] National Federation of Independent Business, "National Small Business Poll," December 17, 2003.
[6] See, for example, Alison Fraser, Bill Beach and Daniel Mitchell, "The Silver Lining of Tax Day 2004," The Heritage Foundation, April 15, 2004.
[7] John L. Guyton, John F. O'Hare, Michael P. Stavrianos and Eric J. Toder, "Estimating the Compliance Cost of the U.S. Individual Income Tax," IBM Business Consulting Services and the Internal Revenue Service, presented at the 2003 National Tax Association Spring Symposium.
[8] Ibid.
[9] "More Time Needed for Figuring Taxes – IRS," Associated Press, April 15, 2004.
[10] Ibid.

One report has pointed to increased tax complexity adding about 1 billion hours in annual paperwork burdens over the past decade.[11] The IRS paperwork burden is estimated at 6.7 billion hours annually, with tax forms accounting for more than 80 percent of the overall federal paperwork burden.[12]

Again, the small business owner or entrepreneur gets hit hard. A 2003 analysis of compliance costs for individual tax returns performed in partnership with the IRS found that while self-employed taxpayers "represent only about 25 percent of all individual taxpayers, they experience approximately 60 percent of the time and money burden" in terms of compliance.[13] Likewise, it was determined that tax return complexity was markedly higher for self-employed returns.[14]

Of course, tax software has made tax preparation easier for many filers, myself included. But again, there are costs here. It was just reported in one news story that H&R Block "wrote its own software program to break through the complexity in education tax credits and deductions. The education calculator prevents taxpayers or tax professionals from having to fill out their tax return as many as four different ways to find out which yields the lowest taxes."[15] Also, many taxpayers use paid tax preparers to do their returns. According to the National Taxpayers Union, about 87 percent of returns are done either by paid preparers or with computer programs.[16] But the question must be asked: What would those tax software writers and tax preparers be doing if they weren't dealing with a complex tax code? That's a deadweight loss to the economy.

I spoke to a few business owners last week about government paperwork. The responses ranged from anger to resignation, but the costs were paid one way or another, for example, having to employ outside accountants or lawyers, or hire staff internally just to deal with all the paperwork the government inflicts. Again, what would those resources be used for if not lost on paperwork?

Unfortunately, recent attempts at easing such paperwork burdens don't seem to have accomplished all that much. For example, in July 22, 2003, testimony before the Committee on Government Reform, Thomas M. Sullivan, Chief Counsel for Advocacy at the U.S. Small Business Administration, observed: "Despite the passage of laws designed to relieve the paperwork burdens imposed by the Federal government on such entities [i.e., small businesses] – such as the Paperwork Reduction Act, and, most recently, the Small Business Paperwork Relief Act of 2002 – the Federal paperwork burden continues to be cited by small businesses as one of their most significant problems… In addition to paperwork, small businesses tell us that they often encounter regulations written with no apparent awareness of the costs that must be borne

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[11] David Keating, "A Taxing Trend: The Rise in Complexity, Forms, and Paperwork Burdens," National Taxpayers Union, April 15, 2004.
[12] Ibid.
[13] John L. Guyton, John F. O'Hare, Michael P. Stavrianos and Eric J. Toder, "Estimating the Compliance Cost of the U.S. Individual Income Tax," IBM Business Consulting Services and the Internal Revenue Service, presented at the 2003 National Tax Association Spring Symposium.
[14] Ibid.
[15] Mary Dalrymple, "Taxes Take Longer Because of Complex Forms," *Seattle Post-Intelligencer*, April 14, 2004.
[16] David Keating, "A Taxing Trend: The Rise in Complexity, Forms, and Paperwork Burdens," National Taxpayers Union, April 15, 2004.

by the affected businesses. This happens despite laws requiring agencies to account for the costs and benefits of new rules."

So what can be done?

• First, it must be acknowledged that complexity starts with the tax code itself. In its 2000 report to Congress, the National Taxpayer Advocate noted that the top two problems facing taxpayers were complexity for individuals and complexity for businesses. Complexity arguably has increased since then.

Consider the 2001 and 2003 tax cuts passed by Congress. These had enormous benefits for the economy, particularly through reductions in personal income, capital gains and dividend tax rates, and the eventual elimination of the death tax. At the same time, though, phase ins and phase outs of these tax measures have added to the system's complexity and costs, as well as creating economic uncertainty.

In the short term, Congress needs to make the 2001 and 2003 tax cuts permanent to alleviate these burdens and uncertainties. The permanent elimination of death taxes, for example, would greatly reduce the costs and complexity of the U.S. tax system. Business owners could make decisions based on economics, rather than with an eye toward estate planning. Investment and the economy would receive a boost.

For the longer haul, focus needs to once again return to tossing out the current income tax mess in favor of a fairer, simpler, less costly and more pro-growth tax system. The plusses and minuses of a flat tax or a retail sales tax must be fully explored. One thing, though, is for sure – either of those tax systems would be a dramatic improvement over what we have now.

• Second, Congress also needs to zero in on current major sources of complexity. One of the most costly is the alternative minimum tax (AMT).

The individual AMT was supposed to prevent the rich from avoiding personal income taxes. Prior to 2000, the AMT impacted less than one percent of taxpayers in any given year, according to a report released on April 15, 2004, by the Congressional Budget Office (CBO). But the CBO also noted that the number of taxpayers hit with the AMT will accelerate quickly in coming years, and that by 2010, one in five – or 29 million -- taxpayers will pay the AMT. Forty percent of married couples will fall under the AMT in 2010. The CBO points out that two-thirds of taxpayers earning between $50,000 and $100,000 will owe the AMT, and more than 90 percent of taxpayers with incomes between $100,000 and $500,000 will have an AMT liability.

The AMT also presents problems for the economy in general. The AMT effectively increases taxes. And the positive impact of any tax relief is lessened. Tax complexity and costs skyrocket, as taxpayers have to calculate their taxes under what are, in reality, separate tax systems – the normal income tax and the AMT

A key reason why the reach of the AMT is expanding so markedly is because the AMT is not indexed for inflation. The CBO explained: "Indexation under current law prevents regular

tax liabilities from growing simply because incomes keep pace with price inflation, but AMT liabilities have no such brake. As nominal incomes rise over time, more taxpayers become liable for the AMT." So, with the AMT, a person can see absolutely no increase in real earnings, yet his tax burden actually rises.

Indexing would remove a big chunk of taxpayers from the clutches of the AMT – more than 80 percent of the projected 29 million in 2010. That would be a big step forward, obviously. However, some 5 million taxpayers would still be left with higher taxes and increased costs under the AMT. SBSC agrees with the National Taxpayer Advocate in recommending the repeal of the individual AMT.

In addition, tens of thousands of corporations – including thousands of manufacturing firms -- have to deal with higher taxes, increased tax complexity and costs, and diminished incentives for investing that come with the corporate AMT. That too deserves repeal.

• Third, we obviously do not want to see the current system worse than it is. For example, one area where we strongly disagree with the National Taxpayer Advocate's latest report to Congress was its recommendation for Congress to "implement a mechanism to withhold on certain categories of non-wage workers." Expanding withholding might sound good to some, but obviously there are costs involved for those having to deal with withholding. In addition, withholding comes with significant economic costs. Business owners, probably better than anyone else, understand the true costs of government exactly because they have to sit down and write out a check to the government for their taxes every quarter. Meanwhile, wage and salary earners often have little idea of what the government is costing them because with withholding, they never see their full earnings in the first place, and tend to look at the take home pay line.

It is far better that taxpayers fully understand the cost of government so they can make informed decisions at the voting booth and when talking to their elected representatives. Withholding accomplishes the exact opposite.

• Fourth, while we all understand how complex the current tax code is, we still would urge the IRS to finds ways to alter the way it presents its booklets, instructions and forms to make them more friendly, with greater use of "plain English" and perhaps enhanced visual aids.

For example, various tax changes over the years have increased the number of deductions and credits, while also phasing out such measures at various income levels. These items obviously create confusion among taxpayers. Simple tables that list the deductions, credits and other incentives, along with the eligibility requirements, would help. Greater clarity and simplicity should be the goal with correspondence from the IRS as well.

• Fifth, the Taxpayer Advocate Service needs to better get the word out that among its duties are representing taxpayers' interests in the formulation of policies and procedures, and identifying and developing proposals for simplifying the tax code and reducing taxpayer burdens. The Taxpayer Advocate has done some illuminating work on certain items that

increase complexity and costs – such as on the AMT – but much more can and should be done in making the case for a simpler and fairer tax system.

Analysis of what leading legislative initiatives would do to the costs and complexity of the tax system would be helpful. Also, in-depth analyses on what various alternative tax systems – such as a flat tax or retail sales tax – would accomplish in terms of system costs and complexities would be beneficial.

• Sixth, and finally, is dealing with the fear factor. The National Taxpayer Advocate noted in its last report to Congress: "We need, somehow, to show taxpayers that their duty to comply with tax laws is balanced by the IRS's obligations to respect their rights – the right to disagree with proposed IRS adjustments and assert that disagreement within the tax system." Congress and the IRS must somehow establish safeguards and boost confidence among taxpayers that the IRS is not going to run roughshod over individual rights. This is no easy task. After talking to individuals and business owners, and taking in horror stories on the news and in books, it becomes quite clear that the IRS and our elected officials have a lot of work to do in boosting confidence in the IRS's fairness. Naturally, a society's tax collector is never going to be loved, but it also need not be feared.

Thank you for this opportunity, and I look forward to any questions you might have.

Mr. OSE. Mr. Schrock, why don't you proceed first?

Mr. SCHROCK. I've got a million questions. Daniel Clifton, you said it best. We've got to reform the Tax Code. If we reform it, you won't have SS AMT. But how do we do it? How do we do it?

Saxby Chambliss—you heard me say Saxby Chambliss and John Linder out there, I think it's the flat tax they're talking about. Will that work? What's the answer to this? It's incredibly complicated and gets no better. Every time we pass a law, it just makes it more and more burdensome on everybody. What's the answer?

Mr. CLIFTON. That's a great question, Congressman. We see the way to do this is to remove the double taxes on savings and investment, and, in the 1990's, we had a debate about tax reform, and people thought whether it was going to be the fair national sales tax, what Congressman Linder is doing now.

Mr. SCHROCK. Fair tax.

Mr. CLIFTON. Or Dick Armey's flat tax, and Congressman Tauzin and Congressman Armey went around the countryside and had a debate about it. They said they were going to rip up the IRS and we were going to start all over.

Mr. SCHROCK. And, it didn't happen.

Mr. CLIFTON. It didn't happen. This President has moved in a different path of tax reform, and he said let me do this piece by piece. And, there's essentially five steps that unite the fair-taxers and the flat-taxers. One, lowering marginal rates, we've done that. We've moved the top rate from 39 to 35 in each step, accordingly.

Two, remove double taxation, such as the death tax, which we have permanently repealed for 1 year. The capital gains and dividend reductions made the Tax Code much more complex. If we had eliminated that, then you would have had much more simplicity, and that's what we really need to do. I mean, Schedule D takes hours to fill out now, and what is a qualified dividend now under the new rate versus a nonqualified? It just gets crazy.

The third is international tax reform, which Chairman Thomas tried to do in his FSC-ETI repeal legislation that is moving both through the House and the Senate to come into compliance with WTO tariffs.

The fourth is moving to full business expensing. Everybody here spoke about depreciation schedules and the impact that has on businesses. We've moved in that direction and gone to a 50 percent system, but we really needed to make 100 so that we have full business expensing. I think politically the only way to do it is incrementally, but I think that, if we remove all double tax on savings and investment and follow the path, we will get to simplicity much easier than trying to do it all at once.

Mr. SCHROCK. When will we get there? In your lifetime? I doubt it.

Mr. CLIFTON. Every time we take a step forward, we take two steps back, so it is a real challenge. There are people who have a vested interest in this Tax Code, and every time we go to make a change, they come roaring at us, and it's very hard to do.

Mr. SCHROCK. Who?

Mr. CLIFTON. I want to give you one example. I spoke about savings accounts. The President's budget has a proposal for lifetime savings accounts and retirement savings accounts. That is the clos-

est incremental step we can have toward fundamental tax reform. Congressman Johnson just introduced legislation, and the people in the retirement business, when—in the retirement savings business went crazy at this proposal, thinking that $1 of immediate savings for me, a young guy saving for a home, is going to supplement $1 of my retirement security. It's not a fixed pie, and we really got a big hit back on that, and that legislation is moving nowhere. That would simplify the Tax Code more than anything we could do on an incremental step without doing fundamental tax reform.

Mr. SCHROCK. Mr. Hense.

Mr. HENSE. In everything that happens, there are winners and losers, and the whole tax law is built around making winners and losers. There's an example. On the flat tax, I was able to participate in a panel discussion with Alvin Rabushka and Dick Armey, and they weren't going to tax interest and dividend income. I understand the philosophical context behind that. But, sell that idea to a production line worker in Flint, MI, that the rich East coast people who inherited a fortune are not going to pay any income tax on what they get, and a guy working in the line is going to pay taxes on his income. That ain't going to fly. In each one of these—in the fair tax, there's winners and losers. In the income tax, there's winners and losers.

I want to address—I have seen some interesting things. As an example, this is going to happen. There are good things and bad things that are going to happen, hopefully more good than bad. There's a simple way to fix the pension problem. Everybody gets to put aside 15 percent of their income, up to $30,000 a year, period. Doesn't make any difference where you work, doesn't make any difference what you do, doesn't make any difference whether you're a C corporation, an S corporation. Whatever you do, you get to put aside that amount of money every year, tax deductible, and that's it. There's no regulations. It's just everybody gets to put aside a share of their income——

Mr. SCHROCK. Tax deductible or deferred?

Mr. HENSE. Or deferred. That's correct, deferred. We're actually already doing that in a sense with Social Security. It's a forced savings plan. It doesn't really work out that way in the end, it doesn't look like, but that's what the plan was.

But, anyway, in the simplification of the income tax, they're trying to help the people at the bottom, and they've made the Earned Income Tax Credit—all these child—it's so complicated that without the software, I couldn't do it. And that's for somebody making under $20,000 a year with a couple of kids. Anybody who owns a business who does not use a CPA is a fool, because it is so complicated with this depreciation, that depreciation, you can—if you buy a vehicle over 6,000 pounds, you get to take that write-off; if it's under 6,000 pounds, you get this write-off. It's all various pressure groups getting what they want. I don't really foresee the day it will really go away. I think it would be a little bit here, a little bit there, and then—just as this gentleman said, then we'll turn around in the next couple of years, it will come back with a whole bunch of—the best example being the tax on capital gains and dividends, if it was after May 5th or whatever, if it was before May 5th.

We have a client who sold an apartment building on May 4th. He wanted to go back and change the paperwork, and I explained to him you can't do that. So, it's political pressure. This goes on and on.

Actually, what happens, people like us have to keep up the battle or we will go backward. If we don't come here and make our case and continue to come back and make our case—a radio newsman asked me yesterday morning when I was talking, after we got done with the interview, he said, you don't really think you're going to make a difference, do you? I said, I don't know, but I know I won't if I don't do anything.

Mr. SCHROCK. If the chairman will indulge me for just a minute, one of the things that used to gall me, when our son was born, my wife was a teacher. She didn't teach until Randy was 4. He went to school, she started teaching, and the agreement was 50 percent of her pay would go into a Uniform Gift to Minors Act account for his college education, but the doggone government kept taking a lot of it. Now, what nonsense is that? We're trying to provide for our kid's education, doing what we think is right, and we're being penalized. That's just one example.

Fortunately—in fact, he was born 28 years ago tomorrow, so, that's when the markets went up and he made a ton of money; still has it. But, I mean, why should the government take that when we're trying to fund his education? That's just one small example.

Mr. HENSE. But, you spent some money getting that done.

Mr. SCHROCK. We spent a lot of money getting that done.

Mr. HENSE. You spend money for attorneys, you spend money for accountants, which isn't all bad, but a lot of money is spent——

Mr. SCHROCK. Wait a minute. Say that again.

Mr. HENSE. I said there's a lot of money spent on accountants. That's not all bad.

Mr. SCHROCK. But, it was with lawyers.

Mr. HENSE. It all depends on whose ox is getting gored, something like that. Tort reform I'm for. Tax reform I'm ambivalent about. But, that's exactly the problem. That is exactly the problem. When you talk about a national sales tax, I'm to the point in life where, you know, I've kind of bought everything. I might want to buy a few more things, but the national sales tax, I could quit mine, because my kids are grown, I've got my house, I don't know; but the national sales tax for young people, they're still buying houses, buying cars, clothes, food, raising kids. So, for all of these, there are positives and negatives, and what I'm hoping will happen is that the organizations that we represent, the National Small Business Association, all of these organizations that we represent will continue the battle in the hopes that we can correct some of these things. But, if we give up, it will get a lot worse real fast.

Mr. SCHROCK. There needs to be two tax codes, one for those raising kids, paying mortgages and——

Mr. HENSE. You know what, that could almost happen. Look at what's already happened. You can almost see something like that happen.

Mr. SCHROCK. I don't mean to ignore you, Mr. Keating. I want to hear from you.

Mr. KEATING. No, that's OK. I agree with the fact that we have to, as representatives of our groups, continue this fight. Obviously on the other side, though, there's got to be political leadership. I think—call me crazy. I mean, I'll take whatever tax cut I can get along the way, but I think the tax simplification debate is a positive political issue that can be worked to elected officials' advantage.

You mentioned the flat tax and the national sales tax, and I went back and I had somebody from our staff—I couldn't remember when I wrote it. It was way back in May 1995. And, I love these. Remember the Armey-Shelby plan? This was for individuals, and this was for businesses. I mean, wow, where has that debate gone? I mean, maybe it's been fumbled on our end, as well, as groups, but that's something that we have to keep hammering away and advancing. Obviously along the way we take what we can get, but I don't think that tax simplification should just be tossed aside as something that's a dream way down the road.

Mr. SCHROCK. So, I think what I hear you all saying is political pressure on Members of Congress by special interest groups are preventing this from happening, period?

Mr. HENSE. But, we're part of that. But, the understanding has to be that we're here today saying that—take an example of 100 percent expensing. I can see that from both sides. I can see where I like it. If I can buy—right now I can go up to $100,000 of computers and deduct it in 1 year. There are some negatives of that, one of them being that you then don't have any deductions for the next 5 years once you expense it all in the first year. But, I can understand where somebody who was not in business would say, whoa, wait a minute. So, he can go out and buy these computers and pay no tax that year, and the way this happens, then somebody says, well, let's do this. Let's have something in there so, if he buys $100,000 worth of computers and he has no tax, we add a tax that taxes part of what he wrote off. That's where the alternative minimum tax came from.

So, basically there are some simple things. This is kind of what you asked for. There are some simple things. Like with the pension plans, 15 percent for everybody up to $30,000. That's it. You don't get any—that's the whole pension plan for the country. On the alternative minimum tax, it has to be done away with. It's just an insanity.

But, if we can't reform the whole thing, which I think realistically I'd like to see it happen in 5 years, but it's not going to happen now, that we will have to nick away at this, you know, take it away layer by layer. But, we have to remember there are people who aren't going to like that, who will argue from the other side.

Mr. KEATING. Can I respond to one point there? I think most people actually would understand—I own a business, I went out and bought $100,000 worth of equipment and I write that off in the year that I bought it. I think people would better understand that concept than, you know, a depreciation table which is basically designed by politicians. I think people would better understand something like expensing. Now, there's an example that we can make that point in terms of the people that we're representing. Members of Congress hopefully do the same thing. So, I think, you know, you

take one at a time, but I think these issues are very much answerable from a general fairness perspective from the public's perspective.

Mr. SCHROCK. And, I think, if you're starting a new business and you're brand new and you have $100,000 in equipment expenses, the first year more than ever you want that write-off so you can survive to the second and third and fourth and fifth year.

Mr. Chairman, I've taken up too much time.

Mr. OSE. Mr. Hense, you just said you had, like, 300 clients?

Mr. HENSE. About 325, 330. I haven't finished the count yet.

Mr. OSE. I think your testimony was you prepare about 300 returns?

Mr. HENSE. Yes.

Mr. OSE. In those returns, do you have different reporting requirements that are, in your judgment, pointless?

Mr. HENSE. Almost all of it. The whole thing becomes pointless, because you spend so much time—I've heard several people comment on the amount of time that accountants spend on this. It could probably be spent on something more worthwhile. Maybe you'd have an engineer instead of an accountant. I think we need more engineers than we need accountants. In order to try to make this tax law meet these political needs, it has become so convoluted. And, to give you an example, probably the form—the worst form is the alternative minimum tax. That's the worst.

But, let me give you another—I was asked one time what the form is that accountants charge the most for, which is probably the most worthless. And, I would say it's probably the office in a home expense. It takes a lot of figuring to come up with an office in the home expense. If somebody owns a business, it has some validity to it. If they're employed and they're taking it as an unreimbursed employee expense, you've got to get an awful large office in the home deduction before it has any meaningful impact.

There's just a lot of—the depreciation schedules, doing the tax depreciation schedule, then doing the AMT depreciation schedule, then doing the book depreciation schedule. There's just so much to it, I'd have a hard time figuring out individually——

Mr. OSE. Well, let me phrase the question a different way. On equipment used in a business, we raised the annual deduction from $25,000 to $100,000 in effect. For many businesses that's a paperwork reduction. You just said whatever it is you bought under $100,000, that's the way it is. You don't have to do depreciation schedule. It's all done.

Mr. HENSE. You still have to keep track of it, because when you sell it you have to recapture it. So, you still have to keep track of it. And, there's another thing. Everything in taxes isn't that simple. If you take a—say you make $50,000 a year. The accountant has to figure out what the optimum use of that $100,000 deduction is, because you can take too much. And, then, if the business is looking profitable, you have a situation where in a graduated tax, you will actually—it can actually end up costing you money to use the section 179. Then you get into the issue with the 50 percent bonus depreciation. Do you take that and carry the loss back to previous years to get a refund of previous years' taxes, and will you get more out of doing that than you would out of carrying it forward?

And, so this is what I meant when I said a small business owner in starting a business, it's really foolhardy not to have a CPA, because just by the nature of the thing, it is so complicated, and many of these decisions, once made, are set in stone.

Mr. OSE. What I'm looking for is some specific example from your experience, either in terms of raising the threshold or eliminating a requirement—I'm looking for some specific example from your experience—and, Mr. Clifton, Mr. Keating, we'll get to you on your recommendations for this—that we could use as an example of increasing the threshold and reducing paperwork burden. In other words, we raise—well, we go from $25,000 to $50,000 in terms of—we go to $30,000 what you can contribute to your retirement program. All you have to do is check a box and that's that.

Mr. HENSE. That would be one. That would be wonderful. A CPA praising the IRS is a little like a minister praising the devil. You don't hear this very often, but the IRS and the Congress have changed some things that have had a positive impact, and I'm having to get used to a new relationship with the Internal Revenue Service. There has been some significant improvement there. And, some of the things that have been done, as an example, is on small business corporations raising the threshold for the AMT. I sometimes come up with ATM which really confuses people, but it's AMT. Raising the threshold for the AMT for small corporations and then having an average that they work with before the actual hit. We have some clients who buy very significant amounts of equipment every year. If they had to pay AMT, it would severely limit their growth. There's an example of something that has been actually done where the AMT was removed. I believe it's at $7 million, you don't pay alternative minimum tax in a corporation.

One of the things—another thing that's being done is changing the filing requirement to 1 year. You kept hitting on that for the 941. That will have significant savings for a business owner. The one thing that concerns me about that is that they will have to be aware that they owe this money. I mean, the quarterly filing lets the IRS know if they're following behind.

Mr. OSE. Also, they're going to end up setting a threshold, something other than annual——

Mr. HENSE. They're going to need to. But, some of this has been done. I'm trying to think of some other areas. The one big thing, if they did away with the alternative minimum tax, it would do away with the multiple depreciation schedules, and it would also do away with a lot of computations we have to do to see whether or not the person—even if they don't have to——

Mr. OSE. What the impact is.

Mr. HENSE. Yeah. We have to check to see—and then also clients call me. As an example, a client was buying a house in Florida for future retirement, and thank God he called me——

Mr. OSE. A low-tax State.

Mr. HENSE. Yeah, a wonderful low-tax State, and it has some real advantages, but a high property tax.

Mr. OSE. I understand.

Mr. HENSE. OK. So, this is a high-income individual. People shouldn't inadvertently stumble into a tax problem, and he very well could have, had he not called me. He called me about some-

thing else and this came up. And, I said, oh my God, we've got to do a computation to see what this does to your AMT, and the property taxes on that home put him into the alternative minimum tax. It affects mainly upper-income people now, but it's working its way down to everybody.

Mr. OSE. Mr. Clifton, do you have any suggestions as to specific examples? Mr. Hense has AMT.

Mr. CLIFTON. I would say in the meantime as well you need to index the AMT right away. I mean, that's something that's doable in the short term. The reason why we're in this mess and more people are being hit with it is because it wasn't indexed in the early 1990's.

Mr. OSE. It's my understanding that requires a statutory fix that cannot be done regulatorily?

Mr. CLIFTON. Right, that's correct. On top of that, I would go back again one more time to the savings programs which could be done by regulatory change, even some by legislation. The rules that are implemented by the IRS of who can pull in—you know, when you have to do a minimum distribution, that's not legislation, that's regulatory powers. And, I can go back in and do a full review for you and get back to you on what is done through regulation versus——

Mr. OSE. We'll send you the specific written question.

Mr. CLIFTON. Great. I would love that.

Mr. OSE. Mr. Keating, anything specific?

Mr. KEATING. Well, he stole my thunder. I would agree with everything that Paul said on the AMT, and I would also agree with indexing. I think those are key issues. You know, we've got—in so many different areas the phasing out of tax benefits at various income levels up—to the extent that they can be raised, great; but to the extent they can be phased out and eliminated, so much the better. It not only would help in terms of reducing tax complexity, but most of those things have to do with savings and investment incentives, and anytime you can enhance those, those are obviously benefits for the economy overall.

Mr. OSE. Mr. Clifton, you mentioned the savings and dividends. I've often wondered why we tax interest. I don't quite understand why that is. But, what level, if any, would you set—what threshold would you set for interest income below which you don't have to report it?

Mr. CLIFTON. There was a change made last year——

Mr. OSE. The amount has been rising.

Mr. CLIFTON. Right. I can't honestly answer that question, because I haven't looked at it enough. Personally, we'd like to abolish all forms of double taxation, including dividend income. I mean, we pushed to pass the President's plan last year, and, in the end, we got something that made it much more complex. But, let me tell you why. We are worried about the paperwork burden. This proposal, when it passed, actually created more of a paperwork burden. However, I would say to continue to do it. The results have been extremely successful from an economic perspective where there's more cash in shareholders' hands, but also at the same time it improved corporate governance, as companies are now returning

that cash back to their shareholders rather than hoarding it, which led to a lot of the corporate scandals.

So, we think, on net, that it was an overall benefit, and that's one of our recommendations, is going back into the 1998 IRS Restructuring Act and saying let's do a full cost-benefit analysis of the economic benefits and the regulatory benefits and weighing that with the costs; because, on that one, while the regulatory burden went up, the economic benefits were so much greater. On some of these other changes, that may not be the case.

Mr. OSE. Mr. Keating, there's——

Mr. KEATING. Can I say one thing?

Mr. OSE. Certainly.

Mr. KEATING. Just the economics of taxing capital gains, dividends, and interest I think has to be understood. You know, you earn a dollar when you're working. What can you do with that dollar? You can either use it for consumption, or you can save it, invest it. And, so often when you use it for consumption, the Federal Government doesn't tax you that much. When you turn around and invest it, your returns are socked again with taxes. So, I just want to reiterate the double taxation that is in effect now. We've benefited tremendously from bringing the dividend tax rate down; especially, I would argue, the capital gains tax rate for investment in entrepreneurship. Those are all great, but I just want to make sure that we understand that it is still a double-taxation scenario.

Mr. HENSE. And for small business—and I'm glad we took a few more minutes, because a big one hit me. Sub S corporations, C corporations, LLCs, a multitude of entities, sole proprietorships, all taxed different. A C corporation, a small business might want to be a C corporation so they can get deductibility of its health care as an expense, and they may want to be a C corporation to be at the lower tax rate to build inventory to build the business. But, if they sell the business while they're a C corporation, or within 10 years of converting to an S corporation, they have a double—there used to be a general utilities rule. You only paid taxes once. I believe it was 1986 they did away with that. It's one thing when somebody gets a dividend from IBM and IBM pays the taxes on it, and then the individual pays the taxes on it, but then a manufacturer gets an offer he can't refuse on his business and he has to pay taxes on the profit in the business, and then he has to pay the taxes on the proceeds when it comes out of the business. The double taxation issue is huge.

You had asked me what single thing, and I was thinking of individuals. We just got done with 1040 season. For businesses, for small businesses that are C corporations, there should never be a double taxation. That's obscene. For S corporations, the 2 percent rule—I'll give you an example. One of my employees, a 41-year-old woman, she and I were discussing her becoming a partner in my business, and one way or another that's going to happen because she's a wonderful employee. She's the classic person you want as an owner.

Mr. OSE. So, we have that on the record?

Mr. HENSE. You have that on the record.

Mr. OSE. I'm her agent and I'm——

Mr. HENSE. You're her agent, and this is going to cost me. Then we went into what she loses if she gets 2 percent of the business. She loses her section 125 plan, she becomes limited on her pension plan. And, she actually said this to me: "Well, Paul, why would I want to be a part owner in this business?" Very pragmatic woman. "I have kids to raise, I have issues, and once I'm 2 percent owner of this business, I come under all the stupid rules that you come under." So, it's a disincentive for this young lady to become an equity owner in my business, because she loses benefits. Why, I can't imagine.

Mr. OSE. Beyond the tax issues—in particular Mr. Keating, I'd direct this at you, but beyond the tax issue, we have reporting requirements for, like, the toxic release inventory and a variety of other things. Beyond the tax issues, are there suggestions you'd make in terms of reporting requirements, paperwork and the like?

Mr. KEATING. We surveyed small business owners going back a few years, and the IRS was No. 1 in terms of the paperwork burden. EPA, OSHA, Labor were all in there. When I spoke to some folks last week, some business owners, I was kind of surprised. I don't know if it was just by chance, but there were two manufacturers that told me about Commerce Department surveys they had to fill out on a quarterly basis, you know, for capacity levels and so on and so on, and it was a nightmare for them.

Now, I'll go back and find out exactly what—I don't know particularly what surveys they were talking about in terms of our conversation, but I would be glad to go back and find out, because they're pretty darn animated about these surveys.

But, I'll go back and try to get some specific recommendations, but what I heard was Department of Labor was a tremendous burden, and, which came as a bit of a surprise, the Department of Commerce, after the IRS in terms of the folks I spoke to last week. But, I gladly would track down some more specifics and get them to the committee.

Mr. OSE. We'll give you a question in writing to which you can respond.

Mr. Schrock.

Mr. SCHROCK. I can't imagine what else I would have. I think our questions pale in comparison to the discussion we've had. You three have been magnificent, really. It's all political will on our part to get it done, but there's so many of us who have so many people on them, special interest groups, quite frankly, that's what causes a lot of this. And, you know, we complain that the paperwork reduction hasn't been as fast as we want, yet we sit up here every year creating more legislation, creating more paperwork on what they try to knock down.

Somebody said you take one step forward and two back, and that's about the truth. We just have to have the political will to do it. I think I do. I just need 434 others on this side of the—you know, in the House to do the same thing. And, I think it's going to be very hard to do.

You know, we talked about the Linder-Chambliss—do you agree with that? Do you think that's the way to go, the fair tax? Is Dick Armey's flat tax the way to go?

Mr. CLIFTON. Americans for Tax Reform supports the flat tax, the Dick Armey concept. We support what Congressman Linder and Saxby Chambliss are trying to do. However, there's something called the 16th amendment that allows the income tax to be there, and we don't believe that we're going to be able to repeal the 16th amendment and do this gigantic tax reform all at once.

With that said, all it takes is somebody like Howard Dean to become President, and we have an income and a sales tax at the same time. And, we want to avoid that. Again, there's so much that we can do together that unite the fair-taxers and the flat-taxers.

I would also point out that Congressman Burgess is the one who reintroduced the Armey flat tax. His is a bit of a variation which has an opt-in/opt-out system with safeguards. What that means is that people who have already invested in depreciation schedules can stay under the existing code, individuals and businesses, and it addresses some of the concerns that were spoken about today. Or, you can just write off into a flat tax. There are protections for that. Americans for Tax Reform fully supports that legislation and——

Mr. SCHROCK. You were saying it would be a hard sell to repeal the 16th amendment? I'll bet you if you put that before the voters of America, you'd get 100 percent support.

Mr. CLIFTON. You're absolutely right. I absolutely agree with you.

Mr. SCHROCK. People are absolutely fed up with it. I have to have an accountant, because I don't understand that stuff at all, and it's better than going to jail. I know your business depends on it, and we'll hold off for another 3 years for you to retire, but I don't know where we go. I really don't.

Mr. HENSE. One of the things, see, with the flat tax, if you exempt dividend and interest—and it's been a long time since I looked at the flat tax, but there are some deductions that aren't allowed. And, in every one of these tax ideas, there are unintended consequences. As an example, the real estate business has been mentioned. I do not know what would happen if we took away the interest and tax deduction, whatever tax system we did, I don't know what would happen to the real estate market. I don't think anybody really knows.

Mr. OSE. Those of us who have no debt would prosper.

Mr. HENSE. This may be true. In the fair tax—in the national sales tax, the one thing in that is that it lends itself to simplicity. It's simply—it is just simple. And, then I start hearing the variations people want to put on it, and it starts not being so simple. But, every form of refuge has its price, and whatever we turn to will have its upside and its downside to it, and we need to keep this debate going, because it's critical to the country.

Mr. SCHROCK. The tax deduction debate on houses is amazing. My tax guy—we have a rather large house that we've had for a long time, and our mortgage was—he said, you can't do that anymore. So, I refinanced the thing and we're going to tear part of it down and rebuild it. But, I have a huge write-off now, and, if they did a flat tax, would that go away? And, that's a real consideration. But, the chairman said that real estate would boom.

Mr. OSE. No. I said people with no debt would prosper.

Mr. SCHROCK. Oh, I see.

Mr. HENSE. Absolutely. It would take away a lot of the debt that Americans go into that's probably unhealthy just to get the tax break.

Mr. KEATING. I'll tell you, I live in New York.

Mr. OSE. I'm sorry.

Mr. KEATING. I accept your sympathy, believe me, and I live on Long Island, so I have some of the highest property taxes in all of the land, and I have a good solid mortgage. I can only speak for myself. You bring the rate down low enough, I'll take the lower rate, but that has to be figured out. We can't go at this and just stab at a rate. We have to bring all those things into the calculation.

And, on the national sales tax, you know, as an economist, I think the national sales tax makes the most sense because you're taxing at the end of the economic process you're taxing at the end. You're taxing when consumption is happening. But, we have questions. You know, the biggest one, as Dan mentioned, is you don't want to have a national sales tax and then have an income tax come back because the 16th amendment is still around. There are other questions about, again, where's the rate set at, does a 20 percent something national sales tax rate—what does that do in terms of incentives for tax avoidance, everything else? All those things are big questions that have to be wrestled with, but I think we should be wresting with them.

Mr. SCHROCK. Maybe when Mr. Hense retires in 3 or 4 years, you can come to Washington and take on that matter with Grover and a few others. Thank you, Mr. Chairman.

Mr. OSE. I want to thank our witnesses here, the second panel, for joining us. It's been very elucidating. It kind of makes me pine for the private sector. We've heard today a vast horizon, if you will, a vast spectrum of where we're going. Our first panel talked about the difficulties in reducing paperwork burden for what I will describe as administrative reasons, whether it be periodicity, thresholds, utility and the like.

One of the things I find interesting is that, in the context of our opening statements, all four of us up here all argued that we aren't doing enough, we aren't doing enough to reduce the paperwork burden, we aren't doing enough to reduce regulatory burden. I think our friend—my friends on the other side in particular registered certain criticisms of the administration's record. I think that gives us, Congressman Schrock, the opportunity to reach out to them and facilitate the passage of a renewal of this particular legislation as the opportunity presents itself. It's a unique set of circumstances that finds both parties in agreement about the efficacy of existing legislation and the need to, frankly, prepare it.

So, in the context that you were able to bring, at least the four of us together, and force a discussion of that, you have been successful.

Mr. Hense, I don't know what 5 years and 10 months from now holds for you, but we'll do our best to make your life, you know, a disappointment at that point.

Again, I do want to thank you, all three of you for joining us today. With that—oh, the record is going to be open for 10 days.

We may send you some questions to which we'd appreciate timely responses, as well as the minority may do that, too. With that, we appreciate your participation.

[Whereupon, at 4:54 p.m., the subcommittee was adjourned.]

[Additional information submitted for the hearing record follows:]

TOM DAVIS, VIRGINIA,
CHAIRMAN

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BERNARD SANDERS, VERMONT,
INDEPENDENT

April 28, 2004

BY FACSIMILE

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

Dear Dr. Graham:

This letter follows up on the April 20, 2004 hearing of the Subcommittee on Energy Policy, Natural Resources and Regulatory Affairs, entitled "What is the Bush Administration's Economic Growth Plan Component for Paperwork Reduction?" As discussed during the hearing, please respond to the enclosed followup questions for the record.

Please hand-deliver the agency's response to the Subcommittee majority staff in B-377 Rayburn House Office Building and the minority staff in B-350A Rayburn House Office Building not later than noon on Thursday, May 20, 2004. If you have any questions about this request, please call Subcommittee Staff Director Barbara Kahlow on 226-3058. Thank you for your attention to this request.

Sincerely,

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

Enclosure

cc: The Honorable Tom Davis
The Honorable John Tierney

Q1. Paperwork Reduction Component in President's Economic Growth Plan.

a. On pages 7-8 of your written statement, you briefly discuss the paperwork reduction component of the President's Economic Growth Plan by mentioning several changes made by this Administration in the regulatory process (e.g., data quality, peer review). What specific proposed **paperwork reduction** initiatives has the Office of Management and Budget (OMB) identified to meet the President's Economic Growth Plan component calling for "Streamlining regulations and reporting requirements"? And, what is the cumulative number of burden reduction hours associated with them?

b. In your written statement, you state, "About 100 [regulatory] reforms are adopted or underway based on nominations received in 2001 and 2002" (p. 7). Could you provide a detailed list of these for the hearing record? And, besides these, what specific proposed **regulatory reform** initiatives has OMB identified to meet the President's objective? And, what is the estimated burden/cost savings associated with them?

Q2. OMB Review of IRS Paperwork. The Internal Revenue Service (IRS) accounts for 81 percent of all government-wide paperwork burden. In the last few years, its paperwork reduction initiatives have barely made a dent in this burden. For years, OMB had only one person working part-time on IRS paperwork. I have repeatedly asked if OMB would increase its staffing devoted to IRS paperwork reduction. In your May 9, 2002 reply to our post-hearing questions, you stated, "It is our judgment that OMB's current staffing level for IRS paperwork review is appropriate."

In response to your reply, in July 2002, the House Report for the Fiscal Year (FY) 2003 Treasury and General Government Appropriations Act directed, "the [Appropriations] Committee believes that OMB should work to identify and review proposed and existing IRS paperwork." In your May 22, 2003 post-hearing answer after last April's hearing, you stated, "In response to the 2002 House Committee on Appropriations report ... I directed the analyst responsible for overseeing the PRA activities of the IRS to devote additional time to IRS paperwork burden" (p.16).

In the General Accounting Office's (GAO's) written statement, GAO recommends, "Because IRS constitutes such a significant portion of the federal burden, one strategy to address agency-initiated decreases is to focus more of OIRA's burden-reduction efforts on IRS" (p. 10).

a. How many OMB staff are now devoted to IRS paperwork reduction, i.e., what has been the change from one staffer part-time to what number of staff? And, if there is insufficient OMB staffing, how will you assure this Subcommittee that next year will show sizeable paperwork reduction results by the IRS?

b. In your written statement, you provide two examples of paperwork reduction efforts initiated by IRS, not OMB, and no evidence of paperwork reduction efforts initiated by OMB (p. 6). And, the Information Collection Budget (ICB) states, "OMB, through a sentinel effect, and through reviewing many recurrent submissions from IRS over a 20 year period, has contributed to curbing excess IRS paperwork (p. 13).

What specifically has OMB done in response to the July 2002 House Appropriations Report directive? Since the Paperwork Reduction Act (PRA) requires OMB review at least every three years of each existing OMB-approved agency paperwork requirement, including each imposed by IRS, how many of the 44 IRS information collections, which each impose more than 10 million paperwork hours, has OMB staff reviewed since July 2002 for burden reduction opportunities? How many of these reviews resulted in revisions initiated by OMB staff? And, how many burden hours were reduced by program changes (vs. adjustments)? Please identify for the hearing record the precise changes initiated by OMB staff (i.e., not IRS staff) for each of these 44 major information collections. Also, please identify every other OMB-initiated change in IRS paperwork in this nearly 2-year period.

c. During this nearly 2-year period, did OMB's staff suggest any changes in periodicity, introduction of thresholds, or changes in existing thresholds for IRS paperwork? If so, please include detailed information about each of them for the hearing record.

d. During this year's hearing, you stated that OMB's desk officer for IRS paperwork is unable to "elevate" any of his substantive concerns about IRS paperwork within OMB. Why can he not elevate his concerns to you?

Q3. Paperwork Reduction Initiatives in 2003-2004. In your written statement, you report total government-wide program decreases due to agency actions of "approximately 54 million hours" (p. 8) on a base of over 8 billion hours.

a. Few Additional Initiatives Required. In its December 2, 2003 OMB Bulletin to the agencies for the FY 2004 ICB, OMB stated, "we are asking agencies to propose or identify **at least one new initiative** to improve program performance by enhancing the efficiency of information collections and reducing burden on small businesses (particularly those with fewer than 25 employees), farmers, or manufacturers" (emphasis added, pp. 3-4).

Given eight years of annual increases versus decreases in paperwork and only a limited number of initiatives in the FY 2003 ICB, which would result in substantial paperwork reduction, why did OMB require only one additional paperwork reduction initiative per department or independent agency for FY 2004?

b. Decreases. What significant **paperwork reduction initiatives** - having at least a 250,000 hours decrease resulting from an agency action (i.e., reduced frequency, sample vs. universe reporting, smaller samples, fewer questions, introduction of a threshold below which reporting is not required, etc.) - were accomplished since April 11, 2003, and what significant initiatives are planned in the remainder of FY 2004 for the following five non-IRS agencies which each levy over 145 **million** paperwork hours of burden on the public? OMB's ICB only shows 5 new initiatives in toto for these 5 agencies. Why is this acceptable to you?
- HHS? [The ICB shows 3.]
- Transportation? [The ICB shows 2, 1 of which is from a prior year.]
- Labor? [The ICB shows none.]
- EPA? [The ICB shows 2, 1 of which is from a prior year.]
- SEC? [The ICB shows none.]

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

Q4. Resolution of Agency PRA Violations. Please provide specific information for the hearing record on each of the outstanding 18 violations, including the number of years in violation, their paperwork hours, and an expected resolution date?

Q5. Public Disclosure. In April 2001, I asked if OMB would publish a monthly OMB Notice in the Federal Register identifying: (a) all **expirations** of OMB Paperwork Reduction Act (PRA) approval and (b) information describing **action by the executive branch** to achieve each major program reduction. Such a Notice could be widely circulated by interest groups to the affected public and will more fully actualize the PRA "Public Protection" provision. In October 2001, OMB replied that, from information on its website, "the public can determine whether a particular agency collection has a currently valid OMB approval."

I did not and do not believe that OMB's website provides sufficient information for the public to assess **monthly results** in paperwork reduction and paperwork for which the public is **no longer required to comply**. As a consequence, I asked if OMB would publish such a Federal Register Notice.

In your May 9, 2002 reply to our post-hearing questions, you stated, "OMB has determined that we will not publish such a Federal Register notice." You cited three reasons: (1) OMB would have to make individual case-by-case determinations, (2) the information could easily become out-of-date, and (3) you believe that a "zero tolerance"

policy is preferable. In your May 22, 2003 reply to our post-hearing questions, you repeated these and made other legalistic points.

Even after your extensive efforts, this year's Information Collection Budget (ICB) reveals 234 violations of law. Based on this unacceptable number, will you reconsider my request for a monthly OMB Notice on these two subjects? If OMB is still unwilling to publish information about agency violations of law, will OMB publish a monthly notice solely about the results of agency-initiated program decreases in paperwork burden? If not, why not?

Q6. SBPRA Enforcement Reports. The 2002 Small Business Paperwork Relief Act (SBPRA) required each agency to submit its initial agency enforcement report to Congress by December 31, 2003. During our January 28, 2004 hearing, we displayed a chart showing 42 agencies that had not yet submitted these statutorily-required reports. On behalf of the Office of **Management** and Budget, you agreed to followup with the noncompliant agencies. When will the missing reports be submitted, especially for the Justice and Treasury Departments, both of which levy fines on small businesses? Please provide an expected submission date for each agency for the hearing record.

Q7. HHS/CMS PRA Violations. On May 15, 2002, I sent a joint letter to you and the Administrator of the Centers for Medicare and Medicaid Services (CMS) about several alleged violations of the PRA by the Power Mobility Coalition (PMC), none of which were included in any of OMB's ICBs. They included nonapproved questionnaires and required additional information to supplement the OMB-approved standard form known as the Certificate of Medical Necessity. Since resolution of these complaints by OMB and CMS, I understand that the PMC has reported additional PRA violations to OMB and has been awaiting an OMB reply since last Fall. Are there, in fact, additional PRA violations? None are reported in this year's ICB. And, if so, how will you assure the Subcommittee that, in the future, CMS and its insurance carriers will only impose OMB approved paperwork nation-wide?

Rec'd 6/22/04

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OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

ADMINISTRATOR
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JUN 22 2004

The Honorable Doug Ose
Chairman, Subcommittee on Energy Policy,
Natural Resources and Regulatory Affairs
Committee on Government Reform
U.S. House of Representatives
B-377 Rayburn Building
Washington, D.C. 20515-6143

Dear Mr. Chairman:

Thank you for your letter of April 28, 2004, enclosing additional questions as a follow-up to your April 20, 2004, hearing entitled, "What is the Bush Administration's Economic Growth Plan Component for Paperwork Reduction?" I appreciated the opportunity to testify before the Subcommittee and share OMB's views on how we can work with you and the agencies to improve the Federal government's performance under the Paperwork Reduction Act and promote economic growth.

Enclosed are OMB's responses to your follow-up questions. If you would like any additional information, please contact me at your convenience.

Sincerely,

John D. Graham, Ph.D.
Administrator

Enclosure

Identical Letter Sent to The Honorable Tom Davis and The Honorable John Tierney

Q1. *Paperwork Reduction Component in President's Economic Growth Plan.*

a. *On pages 7-8 of your written statement, you briefly discuss the paperwork reduction component of the President's Economic Growth Plan by mentioning several changes made by this Administration in the regulatory process (e.g., data quality, peer review). What specific proposed* ***paperwork reduction*** *initiatives has the Office of Management and Budget (OMB) identified to meet the President's Economic Growth Plan component calling for "Streamlining regulations and reporting requirements"? And, what is the cumulative number of burden reduction hours associated with them?*

Answer: In working with agencies throughout FY 2003 and in preparing the FY 2004 Information Collection Budget (ICB), OMB was able to identify a number of promising paperwork reduction initiatives that we expect will achieve meaningful progress in implementing the "streamlining regulations and reporting requirements" component of President Bush's Economic Growth Plan. While OMB has not developed an estimate of the aggregate burden reduction that is likely to result from these initiatives, we expect them to significantly reduce burden and improve program performance. The FY 2004 discussed a number of these initiatives, some of which are described below:

Department of Commerce/Economic Development Communications and Operations Management System (EDCOMS)/NOAA Grants On-line Collaboration, Economic Development Administration (EDA). EDCOMS, in conjunction with the NOAA grants On-line project, will automate select components of EDA's investment (grant) management cycle, including specific data collection and reporting processes. EDCOMS will provide access to EDA's pre-application and application forms on-line, automate select pre-approval and post-approval processes, and comply with the requirements of the Federal Grants.Gov Storefront. Automation of application submission, review and approval processes will conform and comply with the future requirements specified in the federal Grants.Gov Storefront. This will reduce costs to distribute forms, improve consistency and accuracy of information, and result in the more efficient and timely processing and management of the investment (grant) application and post-approval process. EDA anticipates that it will begin using the Grants.gov storefront for submission of core grant application information in FY 2004. The new portal provides a higher quality of information regarding investment programs, investment guidelines economic development resources, as well as recent speeches, economic development research studies, and news on current and upcoming events.

Department of the Interior/Single Source Coal Reporting. The Office of Surface Mining, the Mining Safety and Health Administration, the IRS, and the State of Pennsylvania evaluated the feasibility of combining selected Federal and State forms related to tonnage, fees and/or accident information at mining sites into a single mineral industry reporting system. A streamlined system for reporting will reduce the reporting burden on the coal industry, and improve the efficiency of agency data collection. The partner agencies estimate that single-source coal reporting will save industry $460,000 per year in burden reduction. The ultimate product will be a Single Source Reporting e-Form that is nationally available. This form will capture the data

required by multiple State and Federal agencies, share that data among member agencies, and reduce the burden on reporters to a single form.

Department of Justice/Public Key Initiative (PKI). The Drug Enforcement Administration (DEA) has initiated efforts to conduct pilot projects for Public Key Initiatives that will test and evaluate systems and identify and resolve technical issues. The use of PKI will reduce paper usage, speed transaction times, lower costs, and introduce security measures to the process. These security measures include message confidentiality, originator authentication, content and record integrity, and non-repudiation of involvement by parties to a transaction.

EPA/Toxics Release Inventory (TRI) Burden Reduction. In November 2003, EPA solicited comments from stakeholders on options for reducing burden associated with facility reporting to the Toxics Release Inventory (TRI). The suggestions and requests for comment on the options are on the TRI website (http://www.epa.gov/tri/). The objective is to maintain data quality, reduce the amount of information and time required of facilities to comply with TRI, and relieve certain facilities, such as small businesses, of the reporting requirements altogether. The comment period closed on February 4, 2004. A proposed rule on burden reduction is expected to be published in early 2005.

FDIC/Central Data Repository. FDIC, in conjunction with its Federal Financial Institutions Examination Council (FFIEC), the Federal Reserve and the Office of the Comptroller of the Currency plans a new Internet-based Central Data Repository (CDR) for regulatory reports. This new system will ease the data collection from respondents and release of data to users, enhance the agencies' ability to quickly incorporate new business requirements into the reporting processes, and enhance reported data integrity, accuracy, and consistency. First, CDR will modernize the Consolidated Reports of Condition and Income ("Call Reports"). CDR will collect and distribute data via the Internet and validate information prior to acceptance of Call Reports, significantly reducing the FDIC's processing time while enhancing the quality of incoming data.

Federal Energy Regulatory Commission/Standards for Business Practices Of Natural Gas Pipelines. FERC adopted consensus standards of the North American Energy standards Board for the business and communication practices of interstate pipelines to improve the pipeline grid. This will streamline the way pipelines and their customers/shippers receive and send important information. Standardizing business practices will improve the efficiency of the gas market and how the gas industry conducts business across the interstate pipeline grid. These standards provide additional flexibility to shippers, and improve current standards in the areas of capacity release scheduling, title transfer tracking, imbalance netting and trading, and the standards for conducting business over the Internet. FERC expects to reduce burden imposed on natural gas pipelines by over 600,000 hours. On April 21, 2003 pipelines were required to file tariff sheets to reflect the changes in the standards by May 1, 2003 to go into effect July 1, 2003.

Department of Labor/Review of Certification Requirements. OSHA's certification records requirements are included in standards that are based on National Consensus Standards (NCS). These standards were adopted by the Agency by statutory requirements in the Occupational Safety and Health Act. The original standards included recordkeeping requirements to document various activities such as safety inspections of equipment. OSHA plans to update the standards to ensure that the most current safety and health practices are reflected in its requirements and address the utility and consistency of standards. The agency will review where certification records can be modified without jeopardizing the safety and health of workers, and the applicability of the construction safety records to similar requirements contained in OSHA's general industry standards.

Department of Labor/E-Grants. DOL's E-Grants will allow more efficient and effective grant application and management. E-Grants will eliminate redundant or disparate data collection requirements and improve efficiency, simplify the grant application procedures through standardized processes and data definitions, and improve services to constituents. Currently, the DOL cannot quantify measurable outcomes associated with the implementation of E-Grants, but expects quantifiable results to become more definable with full implementation.

Department of Labor/Mine Safety and Health Administration - Single Source Coal Reporting (SSCR). Every coal producer must report 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. SSCR will SSCR will reduce the reporting burden on industry by eliminating the time required to complete and file duplicate forms to multiple agencies, reducing the time to gather information by requesting less information, reducing the time to complete forms by providing user-friendly online forms and the ability to upload multiple forms in batch, and eliminating postage by allowing electronic filing.

State Department/Bar Codes on Visa Forms. The State Department plans to automate entry of visa application data into consular systems. All visa forms can be downloaded from the Internet. But the Department is working to use bar code technology for data when a visa form is filled out online through a 2-D barcode printed onto the form. When the applicant presents the form, the consular officer scans the barcode to download data into the consular database, reducing time and cost burden to both the applicant and the Department. Form DS-156, *Nonimmigrant Visa Application*, is the first form for which this technology has been implemented. Almost five percent of all DS-156 forms are now being submitted electronically. Although the electronic DS-156 is currently only available in English and Spanish, the use of the online version by some posts overseas is much higher. For instance: Milan (98%), Osaka/Kobe (77%), Johannesburg (33%), Tashkent (21%), and London (53%). Form DS-156 is being translated into 14 additional languages to be released in 2004. Also, the barcode version of Form DS-1648, *Application for A, G, or NATO Visa*, should be released in a few months, and the State Department plans to use this technology for several other visa forms soon.

Department of the Treasury:New TreasuryDirect. The Bureau of Public Debt has made a strategic commitment to concentrate on providing additional electronic alternatives for information collection activities through the web-enabled new TreasuryDirect. TreasuryDirect provides a convenient one-stop menu for Bureau of Public Debt retail securities services and has links for wholesale securities services and institutional customer functions. During 2004 additional retail products will be added including linked accounts for minors and payroll deductions and conversion of paper savings bonds to book-entry. A long-term goal for new TreasuryDirect is for it to hold 50% of Treasury's retail debt by FY 2011.

Department of Veterans Affairs/Application for Service Disabled Veterans Insurance. The VA Insurance Service proposes to offer veterans the option to submit the Application for Service Disabled Veterans Insurance form electronically. Currently, the insured can only submit this information by completing the paper version of this information collection. This form is used to designate a beneficiary and select an optional settlement to be used when the insurance matures by death. The VA anticipates that 20% of the number respondents will complete the forms electronically.

Federal Trade Commission/Electronic Premerger Filing. The FTC is working with DOJ in developing an electronic system for filing Hart-Scott-Rodino Act (HSR) premerger notifications. E-filing will reduce filing burdens for businesses and government and create a valuable database of information on merger transactions to inform future policy deliberations. The FTC expects this system to be operational in FY 2004.

Social Security Administration/Third Party Internet Adult Disability Report. Claimants filing for disability benefits complete disability report forms in addition to an application form. Those forms document medical, vocational and educational information, as well as work history. SSA and Disability Determination Service representatives use the information in the analytic and review processes of the Agency. SSA has developed software to enable adult members of the public to provide needed information online. The reports are combined in an internet collection. Third parties who assist individuals filing for benefits have expressed concern that completing the current internet version of the disability reports does not meet their needs since it was designed for the one-time user who is not familiar with SSA programs. While the design of the application has not yet been determined, SSA estimates that it has the potential to reduce individual reporting burden by at least 30 minutes compared to the current form i3368 used by the general public. Furthermore, when SSA receives well-completed disability reports electronically that can be propagated into SSA's mainframe system, it eliminates the need to re-contact users for additional information. This also saves time at the front end for claims representatives and has the potential to reduce the amount of time needed to gather information to send to the State disability determination units. SSA is undertaking a project to develop a "Third Party i3368." It will be designed for the user who completes the report frequently. The "Third Party i3368" is scheduled for release in the summer of 2004.

b. *In your written statement, you state, "About 100 [regulatory] reforms are adopted or underway based on nominations received in 2001 and 2002" (p. 7). Could you provide a detailed list of these for the hearing record? And, besides these, what specific proposed* ***regulatory reform*** *initiatives has OMB identified to meet the President's objective? And, what is the estimated burden/cost savings associated with them?*

Answer: My testimony referred to recent efforts by the Bush Administration to have Federal regulatory agencies modernize and streamline Federal regulations. In 2001, OMB asked for suggestions from the public about specific regulations that should be modified in order to increase net benefits to the public. We received suggestions regarding 71 regulations from 33 commenters involving 17 agencies. Twenty-three of these recommendations were deemed to "high priority review" candidates.

In early 2002, OMB again asked the public for regulatory reform nominations. OMB received recommendations on a total of 316 rules, guidance documents, and paperwork requirements from approximately 1,700 commenters. Commenters responding to this request nominated some of the 23 rules that had been previously nominated in 2001.

Of the 316 nominations OMB received in 2002, we found that 109 of the reform ideas were already being addressed by agencies. In addition, Cabinet-level agencies and the Environmental Protection Agency decided to initiate reforms of an additional 34 rules and 11 guidance documents. The remaining 2002 nominations were either the responsibility of independent agencies or were not considered to be viable reform candidates.

I have attached tables that list the reforms of regulations and guidance documents that were completed, underway, or initiated at the time we issued our 2003 Report to Congress on the Costs and Benefits of Federal Regulation. While we have not estimated the aggregate burden/cost savings of these reforms, we will provide an update on the status of completed and ongoing reforms in the final 2004 Report to Congress on the Costs and Benefits of Federal Regulation.

Earlier this year, OMB launched a new regulatory reform initiative. On February 20, 2004, OMB issued a notice in the *Federal Register* soliciting comments on our draft 2004 Report to Congress on the Costs and Benefits of Federal Regulation. Chapter II of the draft report reviewed the economics literature on the impacts of regulation on manufacturing enterprises, and specifically requested public nominations of regulatory reforms relevant to the manufacturing sector.

Q2. *OMB Review of IRS Paperwork. The Internal Revenue Service (IRS) accounts for 81 percent of all government-wide paperwork burden. In the last few years, its paperwork reduction initiatives have barely made a dent in this burden. For years, OMB had only one person working part-time on IRS paperwork. I have repeatedly asked if OMB would increase its staffing devoted to IRS paperwork reduction. In your May 9, 2002 reply to*

our post-hearing questions, you stated, "It is our judgment that OMB's current staffing level for IRS paperwork review is appropriate."

In response to your reply, in July 2002, the House Report for the Fiscal Year (FY) 2003 Treasury and General Government Appropriations Act directed, "the [Appropriations] Committee believes that OMB should work to identify and review proposed and existing IRS paperwork." In your May 22, 2003 post-hearing answer after last April's hearing, you stated, "In response to the 2002 House Committee on Appropriations report ... I directed the analyst responsible for overseeing the PRA activities of the IRS to devote additional time to IRS paperwork burden" (p.16).

In the General Accounting Office's (GAO's) written statement, GAO recommends, "Because IRS constitutes such a significant portion of the federal burden, one strategy to address agency-initiated decreases is to focus more of OIRA's burden-reduction efforts on IRS" (p. 10).

a. *How many OMB staff are now devoted to IRS paperwork reduction, i.e., what has been the change from one staffer part-time to what number of staff? And, if there is insufficient OMB staffing, how will you assure this Subcommittee that next year will show sizeable paperwork reduction results by the IRS?*

Answer: As reported in the past, in response to the 2002 House Committee on Appropriations report, I directed the analyst responsible for overseeing Paperwork Reduction Act activities of the IRS to devote additional time to this matter. This level of increased attention to IRS – at the expense of other work – has continued. However, we do not believe that any further increase in OIRA staff investment in IRS paperwork reviews is warranted. OIRA's staffing allocations reflect both the full range of OIRA's agency oversight responsibilities and OMB's historical deference to Treasury on tax policy regulatory matters.

As reported in the past two Information Collection Budgets, taken as a whole, Treasury has achieved burden reductions attributable to agency action of 9.5 million hours in FY 2002 and 58.2 million hours in FY 2003. In spite of this progress, statutorily-mandated changes in the tax code more than offset these efforts. Such increases were reported as accounting for 64.7 million hours in FY 2002 and 95.1 million hours in FY 2003. When Congress changes the tax code the paperwork burdens change but in most cases the discretion of IRS and OIRA to influence that burden is limited.

b. *In your written statement, you provide two examples of paperwork reduction efforts initiated by IRS, not OMB, and no evidence of paperwork reduction efforts initiated by OMB (p. 6). And, the Information Collection Budget (ICB) states, "OMB, through a sentinel effect, and through reviewing many recurrent submissions from IRS over a 20 year period, has contributed to curbing excess IRS paperwork (p. 13).*

What specifically has OMB done in response to the July 2002 House Appropriations Report directive? Since the Paperwork Reduction Act (PRA) requires OMB review at least every three years of each existing OMB-approved agency paperwork requirement, including each imposed by IRS, how many of the 44 IRS information collections, which each impose more than 10 million paperwork hours, has OMB staff reviewed since July 2002 for burden reduction opportunities? How many of these reviews resulted in revisions initiated by OMB staff? And, how many burden hours were reduced by program changes (vs. adjustments)? Please identify for the hearing record the precise changes initiated by OMB staff (i.e., not IRS staff) for each of these 44 major information collections. Also, please identify every other OMB-initiated change in IRS paperwork in this nearly 2-year period.

Answer: OIRA staff works cooperatively and collaboratively with IRS staff on Paperwork Reduction Act matters. We have a free exchange of ideas and do not attribute changes initiated by OMB or IRS. Given the substantial analytical capacity within the IRS, of course, that agency with thousands of staff dealing with administering the tax laws each day is the primary source of ideas for improvement.

Our data system which tracks Paperwork Reduction Act transactions indicates that since July 1, 2002 and April 30, 2004 OIRA has reviewed and acted upon ten requests for approval for IRS information collections imposing more than 10 million hours where either positive or negative "program change" resulted. In seven of those cases increased burden was recorded as "program changes" ranging between 10,800 and 11,750,000 hours. In three cases "program changes" represented burden decreases of between 120,000 to 9,689,900 burden hours. The totals for all of the program changes between July 1, 2002 and April 30, 2004 associated with IRS information collections whose burden exceeds 10,000,000 hours were increases of 23,022,848 burden hours and decreases of 10,851,545 burden hours. Our data system cannot produce identification as to the reason or source of those program changes.

Many of these large burden information collections have been in place for decades and OMB has reviewed them numerous times. Many issues concerning burden associated with them have been resolved through previous reviews resulting from Paperwork Reduction Act approval requests. Usually, major changes are required by statute, however all changes are reviewed and have gone through a rigorous process within Treasury and IRS before submission to OMB.

c. *During this nearly 2-year period, did OMB's staff suggest any changes in periodicity, introduction of thresholds, or changes in existing thresholds for IRS paperwork? If so, please include detailed information about each of them for the hearing record.*

Answer: OMB believes that changes to periodicity and introduction or changes to thresholds for IRS paperwork can be valid areas of pursuit in terms of burden reduction. IRS has made good use of this approach to burden reduction over the past several years. During our reviews of individual IRS information collection requests, OMB has, and will continue to, participate in

discussions with IRS staff regarding opportunities where this makes sense. These kinds of changes must, however, be balanced against their possible effect on taxpayer compliance.

OMB is also taking the initiative on IRS paperwork issues in other ways. OMB, for example, in conjunction with a public meeting for small business representatives chaired by the Small Business Administration's Office of Advocacy, requested participants to provide ideas for reducing IRS paperwork burden. Also, in OMB's draft 2004 Report to Congress on the Costs and Benefits of Federal regulation, we asked the public to recommend specific IRS paperwork requirements that can and should be reduced to lessen burden on the small business sector. While it is too early to report burden reduction, we do believe that any dialogue in this area is useful as a foundation and may lead to more focused work in the future. Finally, OIRA staff continue to work closely with IRS and SBA staff to facilitate better coordination between our agencies in the areas of taxpayer education and assistance.

d. During this year's hearing, you stated that OMB's desk officer for IRS paperwork is unable to "elevate" any of his substantive concerns about IRS paperwork within OMB. Why can he not elevate his concerns to you?

Answer: The IRS desk officer is free at any time to bring up issues regarding paperwork to me. Given the nature of IRS paperwork and its relationship to tax policy and possible revenue impact, elevating tax paperwork issues further in OMB can raise difficult institutional issues with regard to OMB's relationship to Treasury. Historically, Treasury is provided a high degree of autonomy on tax and revenue regulatory matters. This institutional separation has been maintained during five Presidential administrations. Its continuation was considered and retained at the beginning of this Administration.

Q3. *Paperwork Reduction Initiatives in 2003-2004. In your written statement, you report total government-wide program decreases due to agency actions of "approximately 54 million hours" (p. 8) on a base of over 8 billion hours.*

a. Few Additional Initiatives Required. In its December 2, 2003 OMB Bulletin to the agencies for the FY 2004 ICB, OMB stated, "we are asking agencies to propose or identify ***at least one new initiative*** *to improve program performance by enhancing the efficiency of information collections and reducing burden on small businesses (particularly those with fewer than 25 employees), farmers, or manufacturers" (emphasis added, pp. 3-4).*

Given eight years of annual increases versus decreases in paperwork and only a limited number of initiatives in the FY 2003 ICB, which would result in substantial paperwork reduction, why did OMB require only one additional paperwork reduction initiative per department or independent agency for FY 2004?

Answer: OMB believes that requiring agencies to develop specific paperwork reduction initiatives, when done appropriately, is a useful complement to our other PRA oversight activities. You will recall that in OMB's FY 2003 ICB bulletin, agencies were encouraged but "not required" to identify additional initiatives. Our view was that additional initiatives at that time were not necessary because most of the agencies' initiatives that were identified the previous year were still ongoing. We wanted to ensure that agencies approached their initiatives seriously and achieve meaningful outcomes.

This year, we decided it would be useful to again require initiatives, but to do so in a targeted manner. As you know, the Bush Administration is committed to strengthening the manufacturing sector—given the critical contribution it makes to the U.S. economy—and continues to be sensitive to the paperwork and regulatory burdens imposed on small businesses and farmers. Accordingly, OMB decided to focus agencies' attention on these three specific groups. OMB's experience with paperwork reduction initiatives has been that positive results are more likely to be achieved through targeted efforts. We fully expect that initiatives begun in FY 2004 will result in meaningful reductions in reporting burdens in key sectors of our economy.

b. *Decreases. What significant **paperwork reduction initiatives** - having at least a 250,000 hours decrease resulting from an agency action (i.e., reduced frequency, sample vs. universe reporting, smaller samples, fewer questions, introduction of a threshold below which reporting is not required, etc.) - were accomplished since April 11, 2003, and what significant initiatives are planned in the remainder of FY 2004 for the following five non-IRS agencies which each levy over 145 **million** paperwork hours of burden on the public? OMB's ICB only shows 5 new initiatives in toto for these 5 agencies. Why is this acceptable to you?*

- *HHS? [The ICB shows 3.]*
- *Transportation? [The ICB shows 2, 1 of which is from a prior year.]*
- *Labor? [The ICB shows none.]*
- *EPA? [The ICB shows 2, 1 of which is from a prior year.]*
- *SEC? [The ICB shows none.]*

HHS

As you noted, the ICB identifies 3 burden reduction initiatives of at least 250,000 hours for HHS. These reductions all occurred prior to April 11, 2003. With respect to future projects, HHS has several ongoing burden reduction initiatives to note. While HHS has not quantified the burden reduction, these projects are expected to significantly reduce burden and improve program performance. The projects, which are also listed in the ICB, are described below:

Medical Product Surveillance System (MedSuN). FDA. MedSuN is a pilot program to implement a portion of the Food, Drug and Cosmetic Act that pertains to mandatory user facility medical device adverse event reporting. In MedSun, the contractor for the project makes the initial phone

calls to the reporting facilities when they send in reports. The contractor attempts to make the report as complete as possible so the analysts can spend less time in follow-up and more time on report analysis. For the reporting facilities, reporting time should be reduced by 15 minutes using the web-based system (currently used paper form is estimated at 1 hr). Ease in submitting the information will be vastly improved, and the need to mail paper copies is eliminated. Also the ease in obtaining any needed help in filling out the form or in understanding the regulation will be greatly facilitated, thereby making reporting adverse events about medical devices simpler and easier. In February 2002 FDA began the full pilot with 25 sites and by the end of FY 2002 had reached its goal of enrolling 80 sites. FDA has begun more formally evaluating the burden reduction for both FDA and the facilities. FDA has achieved its recruitment goals each year, and expects to reach a total of 240 facilities in FY 2004, with a final goal of 250 facilities in FY 2005. By the end of FY 2003, FDA had a total of 180 sites recruited. FDA anticipates that it will expand the pilot to 240 sites in FY 2004, and will reach its final goal of 250 sites in FY 2005. Since FDA will only be able to recruit 250 sites and spread across the continental U.S. by the end of FY 2005, FDA plans on staying in the pilot phase for several more years.

Electronic Collection Signatures. CMS. In 2002 the Centers for Medicare and Medicaid Services (CMS) identified 10 collections, representing six million annual responses, which could be significantly reduced by use of electronic collection and signatures. In particular, CMS has begun streamlining the claim/bill redetermination and appeals processes into one seamless process of claim/bill redetermination and adjudication. One of the benefits of this new process is the ability of the beneficiary or their representative to submit an electronic e-mail or phone call to their respective carrier/intermediary to initiate the redetermination or appeals process. As a result, several regulatory requirements necessitating the submission of multiple hard copy forms will be eliminated, electronic reporting achieved, and reporting burden reduced for approximately 5,740,000 individual annual reporting responses from beneficiaries each year.

eRA. NIH. The eRA (Electronic Research Administration), an initiative of the National Institutes of Health, is a comprehensive redesign of the entire administrative process of application, initial peer review, secondary Council review, award and post award operations from a paper to an electronic medium. NIH is composed of 28 major components of which 26 make extramural awards. This will affect research institutions, for-profit and nonprofit organizations; governments; individual scientists and clinical investigators. In FY 2003, NIH integrated the proposed eRA initiative with the NIH IMPAC II system for all applications, review activities, awards and post award reporting and administration. Instructions and application forms are now available on the NIH web site and new revisions in FY 2004 will add new electronic capabilities to the application process. Full implementation is expected for the initial application and review submission dates in 2005.

Submission Harmony and Reliable E-business (SHARE) - FDA. The FDA Submission Harmony and Reliable E-business (SHARE) project will provide for electronic submission for the FDA while upgrading the present FDA Gateway initiative. A key aspect of this project is to replace Center-specific submission with modern technology that allows submission of AERS Reports,

eCTD base applications and pdf based submissions, using industry standard protocols. Also, reporting for the two largest FDA burden packages is currently in the process of being streamlined and converted to electronic reporting under the National Electronic Disease Surveillance System (NEDSS). When completed, NEDSS will electronically integrate and link together a wide variety of surveillance activities and will facilitate more accurate and timely reporting of disease information to CDC and state and local health departments. Having this reportable data available electronically will provide the public with access to the health system "real-time" updates of surveillance activities. The first Increment of Operating Capacity for the Gateway should be operational by December 2004.

DOT

One DOT burden reduction in excess of 250,000 hours occurred since April 11, 2003. DOT's Federal Motor Carrier Safety Administration issued a final rule, "Hours of Service of Drivers: Driver Rest and Sleep for Safe Operations," which reduced the number of drivers subject to this information collection by 48,000, which reduced burden by 1,824,000 hours. As far as future initiatives, DOT identified several burden reduction initiatives that are still ongoing. The exact burden reduction potential has not been estimated for each of these projects, but the following initiatives are expected to reduce burden and improve program performance:

OE/AAA Automation. The Federal Aviation Administration (FAA) annually conducts more than 50,000 aeronautical studies. Such studies are conducted when FAA is notified of any proposed construction or alteration around public use airports that is higher than 200 feet above sea level. Such notification is required by law. The new obstruction evaluation/airport airspace analysis (OE/AAA) is a web-based application that is accessed through the FAA's intranet via the user's workstation browser. The program converts all of the Legacy telecommunication software functions, databases, and calculators (Part 77) and presents the information in the user-friendly environment of the FAA Internet. With deployment OE/AAA to all nine regions, paper transactions have been dramatically reduced. The OE/AAA system has reduced the normal 30-day timeframe associated with an aeronautical study to half that time. FAA is now working on adding the second part of the process to the system, FAA form 7460-2, Notice of Actual Construction or Alteration.

Integrated Airman Certification and Rating Application (IACRA). The FAA developed a computer-based program that automates the airman certification process. The program standardizes and streamlines the airman certification process for all persons responsible for airman certification. In addition, the final program will provide an interface between ACRA and multiple FAA databases for a comprehensive and integrated process. IACRA is currently available in the FAA's Southern and Southwest Regions and will be expanded to other regions during 2004. FAA will add automated certification mechanics, parachute riggers, sport pilots, flight instructors, and FAA approved schools during 2004 and 2005.

Hours of Service Regulations. This initiative pertains to the conversion of the Hours of Duty records where railroads account for the time covered employees spend on the job from a paper to an electronic format. To date, both time and cost burdens have been substantially reduced. Records are kept for 100,000 railroad employees covered by this Act – 90,000 train and engine employees, and 10,000 dispatchers and signalmen. Consequently, a total of 27,375,000 records are generated each year. In the past, these records were kept on paper, and incurred a substantial hourly burden as well as significant paper, maintenance, and retrieval costs for railroads. The conversion from a paper to an electronic format reduced the burden on railroads by 772,666 hours. For example, Union Pacific alone is now keeping some 10-11 million records electronically that it was formerly keeping on paper. The three other railroads – CSX, NS, and FEC – also keeping these records electronically are experiencing cost savings as well, albeit on a smaller scale. The Federal Railroad Administration (FRA) estimates that an additional 5.5 million records will be generated and kept electronically, instead of on paper, over the next two years.

Railroad Locomotive Safety Standards and Event Recorders. This Federal Railroad Administration (FRA) initiative pertains to requests for waivers by the Burlington Northern Santa Fe Railroad (BNSF) and the Union Pacific Railroad (UP) to keep the daily locomotive inspections records in an electronic format. An estimated 2,860,000 records are generated each year. Since approximately 20 percent of these paper records are now kept electronically, burden has been reduced by an estimated 19,067 hours. The burden hours was significantly reduced by converting the required previously filled-out on paper, to an electronic format. Also, FRA inspectors are able to perform audits of daily locomotive inspection records, more quickly and thoroughly because they now have ready access to these records. As more paper records are converted to electronic, there is greater potential to reduce the overall burden and expense incurred by railroads to create, retrieve, and maintain paper records.

Unified Registration System-Information Collections. The Federal Motor Carrier Safety Administration (FMCSA) expects to issue a proposed rule during CY 2004 to implement a provision of the Interstate Commerce Commission Termination Act of 1995 requiring the creation of a single, on-line Federal system for issuing DOT numbers, licensing and registration, and financial responsibility. This initiative will consolidate many of the collections that cover motor carrier identification and registration, insurance, and for-hire motor carrier licensing, which will enhance the efficiency of information collections and reduce paperwork burden on the public. Completion of this process will take several years, because certain statutory changes are necessary. A proposal will be made to obtain authority for those changes either directly from the Congress or as part of the reauthorization process.

DOL

As you noted, the FY 2003 ICB does not identify any specific DOL initiatives that reduced burden by more than 250,000 hours. DOL has, however, initiated several significant burden reduction initiatives. For example, DOL has initiated a regulatory change, referred to as the

Standards Improvement for General Industry, Marine Terminals, and Construction Standards (Phase II). OSHA plans to revise a number of health provisions in its standards for general industry, shipyard employment, and construction that are outdated, duplicative, unnecessary, or inconsistent. The Agency expects to publish a final in the second quarter FY 2004. While the specific burden reduction potential has not yet been quantified, DOL has identified several additional burden reduction initiatives planned for FY 2003, including:

ES-202 Program: Multiple Worksite Report (MWR) and Report of Federal Employment and Wages (RFEW). Using the Electronic Data Interchange Center, approximately 200 businesses and Federal agencies avoided filing 7,186 paper reports for the second quarter, 2003, or a projected 28,744 total paper reports for the year. This results in an annual burden hour reduction of approximately 10,635 hours for these firms.

Current Employment Statistics (CES) Survey. DOL plans to continue to update how the CES is collected. 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.

Review of Certification Requirements. OSHA's certification records requirements are included in standards that are based on National Consensus Standards (NCS). These standards were adopted by the Agency by statutory requirements in the Occupational Safety and Health Act. The original standards included recordkeeping requirements to document various activities such as safety inspections of equipment. OSHA plans to update the standards to ensure that the most current safety and health practices are reflected in its requirements and address the utility and consistency of standards. The agency will review where certification records can be modified without jeopardizing the safety and health of workers, and the applicability of the construction safety records to similar requirements contained in OSHA's general industry standards.

E-Grants. DOL's E-Grants will allow more efficient and effective grant application and

management. E-Grants will eliminate redundant or disparate data collection requirements and improve efficiency, simplify the grant application procedures through standardized processes and data definitions, and improve services to constituents. Currently, the DOL cannot quantify measurable outcomes associated with the implementation of E-Grants, but expects quantifiable results to become more definable with full implementation.

Mine Safety and Health Administration - Single Source Coal Reporting (SSCR). Every coal producer must report 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. SSCR will SSCR will reduce the reporting burden on industry by eliminating the time required to complete and file duplicate forms to multiple agencies, reducing the time to gather information by requesting less information, reducing the time to complete forms by providing user-friendly online forms and the ability to upload multiple forms in batch, and eliminating postage by allowing electronic filing.

EPA

You noted two EPA initiatives in the FY 2004 ICB with burden reductions of 250,000 hours or more. One of these initiatives is a planned revision of EPA's Land Disposal Restrictions regulations. These regulations prohibit the land disposal of hazardous waste unless it meets specified treatment standards or is disposed of in a land disposal unit that satisfies the "no-migration" standard. Specifically, HSWA specifies dates when particular groups of hazardous wastes are prohibited from land disposal (except in no-migration units). EPA is finalizing five regulatory amendments, and eliminating a separate waste determination, which will reduce burden by 872,370 hours. In addition to this important initiative, EPA continues to work on another promising initiative that is expected to reduce burden and improve program performance:

RCRA Burden Reduction Initiative. The Environmental Protection Agency plans to significantly reduce the paperwork burden imposed under the Resource Conservation and Recovery Act (RCRA). For example, the rule establishes higher chemical use thresholds for small businesses (facilities below these thresholds would not have to report). EPA wants to ensure that only the information actually needed to run the RCRA program is collected. EPA estimates that the initiative will reduce burden by 929,000 hours and save $120 million annually. A proposed rule was published in 2002, and public comment was solicited on new burden reduction items in 2003. EPA plans to issue a final rule in June 2004.

TRI-ME. The Environmental Protection Agency has developed software to improve the quality of information in the Toxics Release Inventory. The goal of TRI-ME (TRI Made Easy) is to reduce burden on facilities reporting to TRI and improve data quality without diminishing data collection. Examples of burden reduction under TRI-ME are: Allowing higher chemical use thresholds for small businesses (facilities below these thresholds would not have to report to TRI); modifying the eligibility requirements of the Form A Certification Statement (an existing alternative to the standard Form R for TRI reporting for those companies with no more than 500 pounds of toxic chemical

release and other waste management amounts) to expand its use; creating a new form allowing facilities meeting certain criteria to certify to no significant change in toxic chemical release and other waste management reporting in the current year; allowing facilities to use ranges of amounts to report on pollution prevention activities instead of providing specific amounts; and enhancing the program's Toxics Release Inventory - Made Easy (*TRI-ME*) software, a user-friendly expert system that guides facilities through the reporting requirements. Software was made available to reporting facilities in March 2004. The next step is to transition to a new contract, maintaining technical support for software users (TRI Software Support Hotline), and developing the RY2004 software.

Toxics Release Inventory (TRI) Burden Reduction. In November 2003, EPA solicited comments from stakeholders on options for reducing burden associated with facility reporting to the Toxics Release Inventory (TRI). The suggestions and requests for comment on the options are on the TRI website (http://www.epa.gov/tri/). The objective is to maintain data quality, reduce the amount of information and time required of facilities to comply with TRI, and relieve certain facilities, such as small businesses, of the reporting requirements altogether. The comment period closed on February 4, 2004. A proposed rule on burden reduction is expected to be published in early 2005.

SEC

The FY 2004 ICB does not identify any SEC burden reductions of at least 250,000 hours. This should be viewed in the context and nature of the SEC. The SEC is a civil law enforcement agency. Since its creation in 1934, the Commission's mission has been to administer and enforce the federal securities laws of the United States in order to protect investors, and to maintain fair, honest and efficient markets.

One of the traditional goals of the SEC is to strive to improve the quality of, and method of collection for, existing information collections. To accomplish its mission, the SEC established the following priorities:

- ***Collect from the public only the amount and type of information pertaining to securities.*** Information collection will comply with requirements of the Paperwork Reduction Act by not placing any unnecessary burden on the filing community. Information collected will assist the SEC in fulfilling its role as a regulatory and law enforcement agency.

- ***Process collected information in the most economic and efficient manner.*** This includes ensuring that timely disseminated full disclosure data consists of all information collected by the agency for investor protection.

- ***Ensure that processing systems are modern, cost effective, and serve efficiently the mission of the agency.*** Agency information collection systems are revised to exploit evolving technology through the development of applications designed specifically to

assist the agency in keeping up with the ever changing financial world and research innovative methods to collect and disseminate information.

To accomplish these objectives, the Commission established the Electronic Data Gathering Analysis and Retrieval (EDGAR) system to increase the efficiency and fairness of the securities markets for the benefit of investors, corporations, and the economy by accelerating the processing, dissemination, and analysis of time-sensitive corporate information filed with the Commission.

The SEC's recently modernized EDGAR system was again recognized of its innovative information technology. In 2002, EDGAR was selected to receive Computerworld's Honors Laureate for Innovations in Technology Achievement Award, and Post Newsweek's Excellence in Government Award for Innovative IT Accomplishments. These and other awards recognized EDGAR for both its technological advancements in electronic filing as well as for delivering significant value to the investment public.

The required information to be filed with and submitted to the SEC permits verification of compliance with securities law requirements and assures the public availability and dissemination of such information. This information is needed by security holders, investors, brokers, dealers, investment banking firms, professional securities analysts and others in evaluating securities and making investment and voting decisions. The SEC rules, schedules, and forms are reviewed when they are published for notice and comment to assess their continued utility.

It should be noted that the frequency of response, number of respondents, and resulting information collection burden of certain rules depends on the number of investment advisers and investment companies registered with the Commission and on the quantity of assets managed by these advisers and investment companies.

Notwithstanding the challenges that result from the rapid growth of the U.S. securities markets and the increase in the use of advanced technology, the SEC continues to strive to ensure that the information collected from the public is not duplicative and unnecessary.

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

Answer: Small Business. OMB has been and continues to be particularly concerned about the costs imposed on small businesses when complying Federal reporting requirements. The FY 2004 ICB noted a number of ongoing and planned agency initiatives that we expect will

significantly reduce burden on a large number of small businesses:

Department of Agriculture: Program System Contracts (ProTracts). USDA plans to implement a web-enabled application for environmental programs' cost-share contracts. Almost all of the participants in cost-share contracts are classified as small businesses. The system will allow USDA customers to go on-line to complete and submit a program contract application. This online capability will significantly reduce the paperwork burden for small businesses and other conservation stakeholders. Experience in seven pilot States indicates an approximately 25% time reduction for USDA clients using ProTracts over manual contracts. This time savings will increase as USDA simplifies contracting processes and fully implements electronic signatures.

Department of Agriculture: Forest Service Permit Program. The USDA Forest Service is implementing a web-enabled electronic government system to fully process permits for use of U.S. forest system lands and facilities. The agency will be able to readily analyze and measure improved program delivery in an electronic customer-centered environment. Small businesses that need Forest Service permits in pursuit of their trade may now apply online. Burden is also reduced because the initiative will provide an expected decrease in customer data entry time (25%), internal processing time (33%), and customer search time (50%). During fiscal year 2004, FS will work to develop a demonstration of a simple permit process. Permits will be available electronically in fiscal year 2005.

Department of Commerce: Export Control Automated Support System (ECASS) and Simplified Network Application Process (SNAP) - Bureau of Industry and Security. ECASS, which processes export license applications and tracks export enforcement investigations, has been upgraded to permit electronic data entry for applications and commodity classification requests. Exporters, including many small businesses, may file their license applications electronically. Also, ECASS2000+ improve query capabilities and increase the control of BIS's export licensing and export enforcement core business processes. As the effort evolves, it will reduce public burden, reduce redundant requirements, and coordinate Export Enforcement, Export Administration, and Office of Administration by automating labor intensive manual processes and workflow. Also, a re-designed Simplified Network Application Process or SNAP+ module will support submission of BIS work. BIS implemented a Beta-version of the proposed SNAP+ system in November of 2003.

Department Of Defense: Defense Federal Acquisition Regulation Supplement. The requirements for contract solicitations are Defense's second largest information collection. Many Defense Department contracts are targeted to and awarded to small businesses. Many contractors are small businesses. This burden is to apply for benefits and for contracts to provide goods and services under the Defense Federal Acquisition Regulation Supplement (DFARS), a supplement to the Federal Acquisition Regulation. Higher burden for collection of information increased costs and delays, so DoD has a strong incentive to reduce the paperwork burden. This initiative was completed December 2002 and is estimated to reduce annual burden by over 14 million hours.

Small Business Administration: Integration of PRO-Net and Central Contractor Registration (CCR) Systems. SBA partnered with the Department of Defense (DOD), the Office of Management and Budget (OMB), and the General Services Administration (GSA) to establish a single vendor registration point for small businesses to do business with Federal, State, and local governments, and prime contractors, and the acquisition community for small business procurement preference programs. CCR electronically shares the data with Federal agencies to facilitate paperless procurement and payment through EFT. On December 31, 2003, CCR assumed all of PRO Net's search capabilities and functions, and small businesses no longer have to manually register in both PRO Net and CCR. This initiative eliminated the need for small businesses to enter the same information into many different databases, when they wish to do business with the government.

Small Business Administration: Disaster Assistance Credit Modernization System (DCMS). SBA proposes to create a fully integrated, "Paperless Electronic Loan Application and Loan Process." This new system will be open, with the ability to share data and information agency wide. This will eliminate disaster loan application paperwork, physical files, and resulting delays in processing. Implementation of DCMS is scheduled for summer 2004.

Department Of The Treasury: Form 941 Annualization. Internal Revenue Service Form 941, Employer's Quarterly Federal Tax Return, is required of employers to report wages paid, tips employees have reported, Federal income tax withheld, Social Security and Medicare taxes, etc. The Internal Revenue Service has begun a project to identify situations when this filing could be made annually for certain taxpayers. A large number of small businesses file this form, and this effort will greatly reduce their burden. This effort will involve detailed work within Treasury and with the Social Security Administration. January 2006 is the target date for offering this filing option to employers whose quarterly deposit amounts are under a dollar level to be determined.

Farmers. As you know, OMB's ability to monitor burden hours imposed on farmers has been hampered by Congress' decision to exempt Title I and II of the Farm Security and Rural Investment Act of 2002 from the PRA for program implementation and administration. A lower bound estimate of the burden exempted from the PRA is approximately 10.4 million hours, or roughly 12 percent of USDA's entire burden hour inventory. That said, USDA has made efforts to reduce burden during FY 2003. For example, USDA reduced the burden of its collection, "Accounting Requirements for RUS Electric and Telecommunications Borrowers," which sets forth basic requirements for maintaining accounting records on an accrual basis, by removing requirements for borrowers to follow specific recordkeeping retention requirements. USDA took this action because the recordkeeping requirements of FERC or State and local bodies are adequate for its purpose. This reduced reporting burden by 13,156 hours. USDA also plans to consolidate 13 regulations into a single regulation for Multi-Family Housing Programs. This action is being taken to reduce regulations, assure quality housing for residents, improve customer service, and improve the Agency's ability to manage the programs' portfolio. As a

result, the program can better ensure that applicants meet program requirements and repay loans. It is estimated that this will reduce burden by 894,833 hours.

In addition, USDA has developed a web-based, Centralized Cotton Redemption (CCR) process that operates within the Cotton Online Processing System (COPS). When fully implemented CCR will significantly streamline cotton loan repayments and reduce burden by allowing cotton producers' designated agents to repay loans without having to physically deliver funds and copies of required documents to multiple USDA offices. CCR will reduce burden on small businesses and citizens by eliminating all mailings, centralizing redemptions at one electronic location, and speeding the release of loan collateral.

State and Local Governments. The Federal government must make it easier for States and localities to meet reporting requirements, while promoting performance, especially for grants. State and local governments will see significant administrative savings and will be able to improve program delivery through collaboration tools for E-Government. Enhanced and more visible performance reports will help make government at all levels more accountable for results and wise use of resources. Moreover, improving the way that information is shared among levels of government will improve the nation's ability to provide for homeland security. Many of the intergovernmental initiatives are designed to improve homeland security, as identified in the President's Budget and in the National Strategy for Homeland Security. For example, Disaster Management's DisasterHelp.gov provides citizens and members of the emergency management community with a unified point of access to disaster preparedness, mitigation, response, and recovery information from across Federal, State, and local government. DisasterHelp.gov currently has over 12,800 registered users.

Q4. Resolution of Agency PRA Violations. Please provide specific information for the hearing record on each of the outstanding 18 violations, including the number of years in violation, their paperwork hours, and an expected resolution date?

Answer: Please see the attached table, which details the status of the 18 unresolved violations we reported in the ICB (updated as of June 15, 2004). Of these 18, 11 have been resolved, five are pending at OMB, and two have had a 60-day Federal Register notice published. The collections currently pending at OMB should be resolved within 60 days, and the collections with a Federal Register notice published should be resolved within 120 days.

*Q5. Public Disclosure. In April 2001, I asked if OMB would publish a monthly OMB Notice in the Federal Register identifying: (a) all **expirations** of OMB Paperwork Reduction Act (PRA) approval and (b) information describing **action by the executive branch** to achieve each major program reduction. Such a Notice could be widely circulated by interest groups to the affected public and will more fully actualize the PRA "Public Protection" provision. In October 2001, OMB replied that, from information on its website, "the public can determine whether a particular agency collection has a currently valid OMB approval."*

I did not and do not believe that OMB's website provides sufficient information for the public to assess ***monthly results*** *in paperwork reduction* *and* *paperwork for which the public is* ***no longer required to comply****. As a consequence, I asked if OMB would publish such a* *Federal Register* *Notice.*

In your May 9, 2002 reply to our post-hearing questions, you stated, "OMB has determined that we will not publish such a Federal Register notice." You cited three reasons: (1) OMB would have to make individual case-by-case determinations, (2) the information could easily become out-of-date, and (3) you believe that a "zero tolerance" policy is preferable. In your May 22, 2003 reply to our post-hearing questions, you repeated these and made other legalistic points.

Even after your extensive efforts, this year's Information Collection Budget (ICB) reveals 234 violations of law. Based on this unacceptable number, will you reconsider my request for a monthly OMB Notice on these two subjects? If OMB is still unwilling to publish information about agency violations of law, will OMB publish a monthly notice solely about the results of agency-initiated program decreases in paperwork burden? If not, why not?

Answer: We agree that the number of PRA violations that we reported for FY 2003 is too high. Having made significant progress over the past few years in eliminating the considerable backlog of unapproved collections, and in reducing the number of information collections that become PRA violation as a result of their OMB approval expiring, we will now turn our attention to working with the agencies to eliminate altogether future PRA violations. Specifically, we plan to follow up with agencies throughout FY 2004 to improve their ability to take action before OMB approvals of their information collections expire. We will also make it easier for agencies to inform OMB when they discontinue collections and intentionally allow their OMB approval to expire. We expect that our efforts to prevent PRA violations will be as successful as our efforts to resolve PRA violations.

Regarding your request that OMB publish monthly Federal Register notices of PRA expirations, we remain unconvinced of their utility. More importantly, in light of the measurable, positive results that OMB has achieved with our "zero tolerance" policy and that we expect to achieve through our continued efforts in this area, we believe we should continuing to devote our resources to proceed along this track.

Q6. *SBPRA Enforcement Reports. The 2002 Small Business Paperwork Relief Act (SBPRA) required each agency to submit its initial agency enforcement report to Congress by December 31, 2003. During our January 28, 2004 hearing, we displayed a chart showing 42 agencies that had not yet submitted these statutorily-required reports. On behalf of the Office of* ***Management*** *and Budget, you agreed to followup with the noncompliant agencies. When will the missing reports be submitted, especially for the*

Justice and Treasury Departments, both of which levy fines on small businesses? Please provide an expected submission date for each agency for the hearing record.

Answer: Our efforts to remind agencies of their obligations to submit a regulatory enforcement report focused on agencies that undertake a substantial amount of regulatory enforcement. We therefore have focused primarily on cabinet-level agencies. According to our records, the Treasury Department submitted its regulatory enforcement report on March 5, 2004. The Department of Justice has not yet submitted its report, but we have been told that its report is in the clearance process and will be submitted in the near future.

Q7. *HHS/CMS PRA Violations. On May 15, 2002, I sent a joint letter to you and the Administrator of the Centers for Medicare and Medicaid Services (CMS) about several alleged violations of the PRA by the Power Mobility Coalition (PMC), none of which were included in any of OMB's ICBs. They included nonapproved questionnaires and required additional information to supplement the OMB-approved standard form known as the Certificate of Medical Necessity. Since resolution of these complaints by OMB and CMS, I understand that the PMC has reported additional PRA violations to OMB and has been awaiting an OMB reply since last Fall. Are there, in fact, additional PRA violations? None are reported in this year's ICB. And, if so, how will you assure the Subcommittee that, in the future, CMS and its insurance carriers will only impose OMB approved paperwork nation-wide?*

Answer: We very much appreciate your continued interest in this issue. We are happy to report that over the past few years, we have been engaged in an iterative dialogue with CMS and representatives of the Power Mobility Coalition on paperwork issues related to the use of Certificates of Medical Necessity (CMN) in a variety of contexts, including for durable medical equipment, such as powered wheelchairs. We also understand that CMS has periodically convened meetings with the Power Mobility Coalition, other interested parties and the Durable Medical Equipment Regional Carriers (DMERCs) to discuss general paperwork concerns. We continue to believe that these efforts, along with our discussions with the agency and the suppliers, continue to be extremely helpful in the development of a CMN process that meets the needs of the agency to ensure that claims are responsibly processed, as well as the needs of suppliers for a predictable and efficient claims process.

As you may be aware, CMS uses the CMN in order to obtain documentation from physicians that certain pieces of medical equipment are medically necessary for Medicare beneficiaries. Each claim for these items must have an associated CMN for the beneficiary. Suppliers (those who bill for the items) complete the administrative information and then forward to the treating physician or other appropriate clinician, who completes the portion pertaining to the beneficiary's condition and signs the CMN. We understand that CMS needs information on the medical necessity of items such as power wheelchairs in order to ensure that CMS' contractors responsibly process Medicare claims for payment for these medical items. Periodically, the agency also needs additional documentation to support these types of claims. However, we also

understand that the suppliers of this type of medical equipment also need to be able to understand when these types of requests will be made in order to ensure that claims are processed efficiently. We plan to continue to work with both CMS and suppliers to ensure that there is an appropriate balance between these important goals.

As we reported previously, OMB approval of the general CMN (OMB #0938-0679) expired in October of 2000. At that time, we expressed our concern about this lapse in approval to the agency and requested that CMS submit the CMN for public comment and then again seek OMB approval under the PRA. The agency began this process by publishing a public notice in the Federal Register on March 4, 2002, with that comment period ending on May 3, 2002. Following the close of the public comment period, CMS submitted the general CMN (OMB #0938-0679) for OMB review and clearance on July 10, 2002, quickly followed by a new CMN for power wheelchairs, which was submitted on July 16, 2002.

We approved both the general CMN (OMB #0938-0679) and the CMN for power wheelchairs (OMB #0938-0875) on September 13, 2002 for a three month period. While the collections were under our review, OMB and CMS began discussions about possible modifications to the CMN collection, with the agency undertaking its own review as well. CMS published notices in the Federal Register on November 18, 2002 requesting public comment on its proposed revisions to the two CMN forms. Comments on these proposed revisions were accepted by CMS through January 18, 2003. At CMS' request, on December 20, 2002, we extended approval of these collections to allow the agency additional time to consider public comments as they developed their draft submission to OMB.

After considering public comments on these collections, CMS resubmitted them to OMB for review under the Paperwork Reduction Act (PRA) on March 21, 2003. The public then had another opportunity to submit comments on the proposed collections until April 21, 2003, with the comments coming directly to OMB. We are pleased to report that OMB approved these collections on June 6, 2003 for a period of 18 months. During this time, CMS has agreed to evaluate the effectiveness of these changes and determine whether additional changes are necessary.

Comments from the public during the various comment periods assisted CMS in evaluating the Medicare claims system for durable medical equipment and assisted OMB in its review of these collections. As a result of this process, CMS revised the CMN by incorporating into the approved collection an outline of the framework under which the agency would request additional documentation from suppliers to support these types of claims, which included estimates of the burden. This step was intended to address suppliers' concerns that they needed to be able to understand when these types of requests will be made in order to ensure that claims are processed efficiently.

We have since learned that there remained confusion in the supplier community as to the conditions under which additional documentation would be necessary. Upon receipt of the PRA

petitions from the supplier community, we again engaged the agency in discussions about the CMN form and the documentation necessary to support it. This process continues, and progress is being made. We expect to conclude this process very soon.

We see this as an important effort to ensure that the agency is able to obtain the information necessary to ensure that Medicare claims for power wheelchairs are reimbursed responsibly, while minimizing paperwork burden on providers and beneficiaries. We will continue to work with the agency in this regard.

New Reforms Planned or Underway		
Agency	**Regulation/ Guidance Document**	**Description**
Agriculture	Salmonella Performance Standards	FSIS expects to begin regulatory activity in late 2003 or early 2004. FSIS is considering a petition on posting Salmonella testing results for firms by name. The petition is to be published for comment, with a decision in 2003.
Agriculture	Phytosanitary Certificates for Seeds	APHIS will propose to amend the nursery stock regulations by allowing the importation of small lots of seed under an import permit with specific conditions, instead of requiring a phytosanitary certificate from the government of the exporting country.
Agriculture	Swine Production Contract Library	USDA is in the process of implementing the swine contract library. OMB recently concluded review on the final rule. USDA has developed an electronic system to receive and summarize information and provide public reports. This system will be operated when the rule is published.
HHS/CMS	75% Rule	This issue was discussed at a Town Hall meeting on 5/19/03. CMS obtained information from affected entities and is using the information to develop an NPRM.
HHS/CMS	One-Hour Restraint Rule	In October 2002, CMS convened a Town Hall Meeting with affected industry groups, professional organizations, and advocates to gain input regarding reducing burden while maintaining patient protections. CMS is using this information to develop an NPRM to be published in 2003.
HHS/FDA	Standard of Chemical Quality – Arsenic	FDA is considering how to best address this issue.
HHS/FDA	Standard of Chemical Quality – Uranium	FDA published a final rule on March 3, 2003.
HHS/FDA	Labeling of Carmine	FDA will address this issue in the Fall 2004 Unified Agenda.
HHS/FDA	Labeling of Food Allergens	FDA is considering how best to address this issue.
Labor	Medical Certification	ESA is considering changes to the FMLA medical certification form as part of the ongoing FMLA regulatory review.
Labor	FLSA Administrative Exception	ESA is including changes to the administrative exemption in the comprehensive NPRM on the 29 C.F.R. Part 541 regulations, which was published for comment March 31, 2003.
Labor/OSHA	Explosives and Process Safety Management	OSHA added this issue (standards improvement) to the Semiannual Regulatory Agenda in December 2002. OSHA plans to publish an NPRM by July 2004.
Labor/OSHA	Sling Standard	OSHA has underway a project to update standards that are based upon or refer to outdated voluntary consensus standards. This standard is part of that project. OSHA plans to publish an NPRM and/or direct final rule by September 2004.
Labor/OSHA	Bloodborne Pathogens Standard	OSHA will be initiating the next cycle of review this year for this standard.
DOT/FAA	Improved Flammability Standards for Thermal/Acoustic Material	OMB concluded its review of this rule in April 2003. DOT anticipates issuing the rule in 2003.

New Reforms Planned or Underway		
Agency	**Regulation/ Guidance Document**	**Description**
DOT/FHWA	Contract Requirements for Minor Transportation Projects	FHWA has already published transportation enhancement program guidance. The guidance included several memoranda which exempt transportation enhancement (TE) projects from several highway requirements, and these are highlighted at www.fhwa.dot.gov/environment/te_meas.htm FHWA is exploring legislative options to streamline administrative procedures for TE activities.
DOT/FHWA	Historic Preservation Regulations	The issues raised by the commenter are actively under consideration as FHWA develops its legislative reauthorization proposal.
DOT/FHWA	Traffic Operations	Final rule is scheduled for October 2003.
DOT/FHWA	Highway Work Zone Safety	DOT issued an NPRM in May 2003.
DOT/NHTSA	Roof Crush	NHTSA is developing a comprehensive plan to address rollover, including roof crush. In October 2001, NHTSA issued a request for comments to assist in upgrading the requirements of FMVSS No. 216. The notice asked the public for its views and comments on what changes, if any, are needed to the roof crush resistance standard. The agency has completed its review of the comments submitted in response to that notice and expects to publish an NPRM in early 2004.
DOT/NHTSA	Door Locks	NHTSA is currently preparing an NPRM that will propose to upgrade the existing FMVSS No. 206. As a part of an international committee under the auspices of the United Nations/Economic Commission for Europe, NHTSA is currently working with other governments' experts to develop a global standard for the performance of door, door retention components and door locks. NHTSA expects to incorporate its international work with its own work on this subject and issue a proposed upgrade of its door latch and lock standard by 2004.
DOT/NHTSA	Bumper Strength	Evaluation of the bumper standard is approximately 15 years old. Based on the length of time that has passed, NHTSA believes it may be appropriate to reevaluate the existing bumper standard.
DOT/NHTSA	Side-Impact Protection	The agency has initiated a new rulemaking to require enhanced head, chest, and abdominal protection in side impacts under FMVSS No. 214.
DOT/RSPA	Hazardous Materials Training	RSPA anticipates submitting the draft final rule to OMB in 2003.
Treasury/IRS	Flexible Spending Accounts	The Administration has proposed statutory modifications that would address concerns about unnecessary year-end purchases of medical care to avoid forfeiture. These proposals would allow (1) up to $500 in unused benefits in a FSA to be carried forward to the next year and (2) up to $500 in unused benefits in a FSA to be transferred to a 401(k), 403(b), 457(b) SARSEP, SIMPLE IRA, and/or MSA.

New Reforms Planned or Underway		
Agency	**Regulation/ Guidance Document**	**Description**
Treasury/IRS	Mortgage Revenue Bond Purchase Price Limits	Treasury is currently researching different options to address this issue.
EPA	Regulatory Reform for Handling Refrigerants	EPA plans to issue an "Alternate Refrigerants" final rule in 2003; a "Split System" final rule in 2004, and Limited "Field Reclamation" final rule in 2003.
EPA	Chemical Plant Safety Standards	EPA will determine an approach to collecting information from facilities that have deregistered or changed their RMP and establish a mechanism for information collection. EPA will collect and analyze information in June 2004 and issue the results in September 2004.
EPA	Protections for Farm Children from Pesticide Exposures	EPA's response to the petition filed pursuant to the Agency's hearing and objections process under FFDCA is expected in late 2003.
EPA	Definition of Volatile Organic Compound	Possible revision to policy on control of VOCs–ANPRM is planned in 2003.
EPA	TRI Alternate Reporting Threshold (Form A)	EPA plans a stakeholder outreach process to evaluate issues relating to the alternative threshold and the Form A Certification Statement. EPA will issue a discussion paper on the Stakeholder Dialog Phase 2 for a 60-day comment period in 2003 and then determine next steps (e.g., development and publication of proposed rule).
EPA	Export Notification Requirements	EPA is considering how best to address this issue.
EPA	Storage for Reuse	At the present time, EPA is working with the regulatory community to identify appropriate ways to minimize the potential burden resulting from these regulations. EPA will seek public comment in 2003.
EPA	TRI Form R Reporting	EPA has published a notice soliciting public comment on form changes designed to address concerns regarding the categorization and aggregation of release and waste management data; appropriate changes will be reflected in the ICR renewal, expected for review at OMB in September 2003; as part of the Stakeholder Dialog discussed under Form A above, EPA will also explore burden reduction options that may affect Form R, such as alternate year reporting for small businesses.
Labor/OSHA	Multi-Employer Citation Policy	OSHA's longstanding enforcement policy was clarified in a 1999 directive. OSHA has initiated discussions with several organizations (including the petitioners) on developing additional guidance to further clarify the responsibilities of the general contractor.
DOT/Coast Guard (note: Coast Guard is now part of newly formed DHS)	Marine Safety Manual	The Department is continuing to review this nomination.

New Reforms Planned or Underway		
Agency	**Regulation/ Guidance Document**	**Description**
EPA	EPA Index of Applicability Decisions	EPA's action on this issue was completed with the publication of a notice on February 13, 2003.
EPA	"Once In, Always In" Policy	The NPRM was issued in May 2003, and the final rule is expected in May 2004.
EPA	TRI Reporting Forms and Instructions	EPA's initial evaluation will be focused on reform of the TRI Alternate Reporting Threshold (Form A) and TRI Form R Reporting.
EPA	TRI Reporting Questions and Answers	EPA is currently reviewing and updating the *1998 Q&A* guidance document. It expects to publish an updated Q&A guidance document in 2003.
EPA	Waterborne Diseases	In summer 2003, EPA plans to issue a notice on the Status of Waterborne Disease epidemiological studies that are underway and/or nearing completion. In fall 2003, EPA will publish the results of two of the research studies. In fall 2004, EPA plans to publish the Waterborne Disease Estimate by EPA and CDC.
EPA	Integrated Risk Information System	EPA expects to hire 10 new IRIS staff and complete 13 assessments in FY 2003. New/updated assessments for 5 chemicals were added to the IRIS data base through March 2003. Assessments for another 8 chemicals are projected to be completed in FY 2003. An EPA Science Advisory Board (SAB) review for these assessments is scheduled for 2003, and a contractor report is expected in 2003 for approximately 160 IRIS chemicals. Summary results of literature screening is expected to be entered into the IRIS data base by 2003.
EPA	Economic Benefit of Noncompliance in Civil Penalty Cases	EPA expects to complete peer review of proposed changes to the BEN Model in 2003 and publish a notice in 2003.
EPA	Site-Specific Risk Assessments in RCRA	ll issue a memo to regional offices reiterating the appropriate use of (1) the SSRA policy and technical guidance and (2) requesting review of regional documents to ensure that such documents do not imply mandatory requirements. EPA will also propose a response to the CKRC Rulemaking Petition in the MACT Phase I Replacement Standards/Phase II. An NPRM is expected no later than the end of 2003/early 2004. EPA will make a final decision on the CKRC Rulemaking Petition no later than the MACT Phase I Replacement Standards/Phase II Final Rule no later than June 2005.
EPA	Submetering Water Systems	EPA distributed a briefing paper to Regional Offices to get comments on options for addressing issues. Further action(s) will be determined by EPA.

Reforms Completed or Ongoing as of December 2002		
Agency	**Regulation/ Guidance Document**	**Description**
Agriculture	Pathogen Reduction and Hazard Analysis and Critical Control Point (HACCP) Systems	FSIS has refrained from mandating critical control points in its HACCP regulations. The issue of defining when a product leaves an establishment's control was dealt with in an administrative instruction to filed inspection personnel issued in 2001. In 2002, FSIS published policy notices and issued administrative instructions to its field personnel that, among other things, addressed the relationship between sanitation standard operating procedures and other prerequisite programs or good manufacturing practices and an establishment's HACCP plans. The agency believes this issue is on its way to resolution.
Agriculture	Post Mortem Inspection: Extent and Time of Post Mortem Inspection - Staffing Standards	FSIS is testing a new HACCP-based system of inspection in volunteer plants. The new system is intended to accommodate new technologies and allow increased operational efficiencies. If the results of the testing justify a new system, FSIS will consider appropriate amendments to its regulations. Regarding inspector overtime, FSIS is legally authorized to collect fees from establishments for overtime and holiday inspection work. Because of current budgetary exigencies, FSIS is likely to continue to collect such fees.
Agriculture	Zero Tolerance for *Listeria monocytogenes* and Performance Standards	FSIS aired the scientific and other issues relating to *Listeria* as a contaminant of processed products in a November 14, 2002, public meeting. The agency is studying options for proceeding on this matter and expects to be in position to publish a decision in 2003.
Agriculture	Nutrition Labeling of Ground or Chopped Meat and Poultry Products	On January 18, 2001, FSIS published a proposed rule to require nutrition information either on labels or at the point-of-purchase for the major cuts of single-ingredient, raw meat and poultry products, unless an exemption applies. FSIS also proposed to require nutrition labels on all ground or chopped meat and poultry products, unless an exemption applies. FSIS has been considering the comments received in response to the proposal and expects to publish its decision on this matter by December 2003.
Agriculture	Plant Pest Regulations	The issue identified by the commenter regarding restrictions on butterflies was part of a proposed rule. APHIS intends to address comments on the proposed rule in the final rule.
Agriculture	Mad Cow Disease	On January 17, 2002, the agency published a notice announcing the availability of its current thinking paper on measures that could be implemented to minimize human exposure to materials that could potentially contain the BSE agent. A rulemaking addressing equipment and procedures used at some slaughterhouses that could result in contamination of carcasses with BSE risk materials is under consideration within USDA. USDA has asked Harvard University to re-evaluate its 2001 BSE risk assessment in light of the single case of BSE in Canada.

Reforms Completed or Ongoing as of December 2002		
Agency	**Regulation/ Guidance Document**	**Description**
Commerce	Annual Capital Expenditures Survey	During OMB's review of this survey under the Paperwork Reduction Act, OMB confirmed that the information collected on this survey cannot be obtained from IRS.
Education	Title IX and Single-Sex Schools	The Department is considering changes to the regulations implementing title IX of the Education Amendments of 1972. The Department anticipates publishing a notice of proposed rulemaking in November 2003.
Education	Federal Family Education Loan Program	In developing the Federal Family Education Loan Program regulations through the negotiated rulemaking process, ED developed a list of proposed regulatory changes from advice and recommendations submitted by individuals and organizations in response to a May 24, 2001 request for recommendations on improving the Title IV student assistance programs from Representatives Howard "Buck" McKeon and Patsy Mink. ED's intent in amending these regulations was to reduce administrative burden for program participants, to provide benefits to students and borrowers, and to protect taxpayers' interests. The final regulations for the rules that were proposed in both of the negotiated NPRMs were published on November 1, 2002.
Energy	Energy Conservation Standards for Central Air Conditioners and Heat Pumps	The Department issued a final rule on May 23, 2002 that withdrew its previous final rule and increased the minimum energy efficiency levels by 20 percent. No further changes to the standard are planned.
HHS	Medicare Program Prospective Payment System for Hospital Outpatient Services	A final rule (to amend existing regulations implementing the Emergency Treatment and Active Labor Act of 1998) has been sent to OMB for review
HHS/CMS	Use of the OASIS for Home Health Agencies	CMS has streamlined the OASIS instrument. As a result of these changes, the number of items in the OASIS was reduced by 28%. The amount of time to complete the OASIS was reduced by 25%.
HHS	Health Insurance Portability and Accountability Act Claims Processing Standards	HHS does not agree that health plans must accept a HIPAA-compliant claim as a "clean claim" for purposes of contractual provisions with other entities under HIPAA, and for State and Federal prompt-pay requirements. HHS views the requirements of HIPAA statue and regulations as separate and distinct from various State and Federal "clean claim" requirements. The requirements of one do not necessarily fulfill the requirements of the other. Further action is therefore unlikely.

Reforms Completed or Ongoing as of December 2002		
Agency	**Regulation/ Guidance Document**	**Description**
HHS/FDA	Standard of Microbiological Quality—Total Coliform	The 1993 proposal to establish standards for coliform was cited in an April 22, 2003 notice announcing FDA's intent to withdraw 84 regulatory proposals whose publications dates were five years ago or longer. Public comments were solicited on this set of withdrawals, and the comment period closed on July 21, 2003. Currently, FDA is considering the merits of re-proposing the establishment of coliform standards, taking advantage of scientific information that has emerged since the 1993 proposal.
HHS/FDA	Premarket Notice for Bioengineered Foods	This rulemaking has been withdrawn, as announced in Spring 2003 Regulatory Agenda.
HHS/FDA	Pediatric Rule	The rule was overturned, as exceeding FDA's statutory authority, by court decision on October 17, 2002, and is no longer in effect.
HHS	Individually Identifiable Health Information	HHS is constantly issuing guidance on implementation of the privacy rules that went into effect on April 17, 2003. Changes in the codified text of the rules are, however, not currently contemplated.
HHS	Protection of Human Subjects	The rule is still under consideration within the agency.
Interior	Digital Aircraft Radios	The agency has decided to delay the implementation of the requirement to switch to a digital narrow band radio to January 1, 2008. The agency expects the cost of these radios to decline over the next few years.
Interior	Conservation Use in Grazing	The BLM has issued an ANPRM soliciting comments on removing this provision from its grazing regulations.
Interior	Surface Management of Mining Claims	Both the definition of "unnecessary and [sic] undue degradation" and the 2000 performance standards were amended in 2001. The BLM went through a rulemaking process in 2001 to make both changes which the commenter criticizes. Interior did so because the definition of unnecessary or undue degradation may well have exceeded BLM's authority and because the 2000 performance standards, in some cases, went beyond that which is necessary to allow environmentally safe exploration and development.
Interior	Endangered Species Act	This rule (50 CFR Part 17) is codified, and the agency believes it does not require reform.

Reforms Completed or Ongoing as of December 2002		
Agency	**Regulation/ Guidance Document**	**Description**
Interior	Endangered Species Act Delisting	The Service proposed the bald eagle for delisting in 1999. There has been a delay in issuing the final rule due to processing the large amount of information and comments that were generated during the public comment period. The Service has finalized the reclassification of the wolf to threatened and identified three Distinct Population Segments (DPS). An Advanced Notice of Proposed Rulemaking was published in the Federal Register announcing Interior's intention to publish a proposed rule to de-list the Eastern Distinct Population Segment (DPS) of the gray wolf. The Eastern DPS includes the Great Lakes region. The grizzly bear is federally listed as threatened throughout its entire range in the lower 48 United States.
Interior	Possessory Interest Assets	The current regulations do not reference the term "book value" for determining the value of capital improvements by a concessioner. The current legislation implemented in 1998 provides for Leasehold Surrender Interest (LSI) for reimbursement of capital improvements. The NPS believes that using book value would be a clearer method of determining reimbursement value but is held to language included in the legislation. Nonetheless, the NPS has created an interdisciplinary workgroup to listen to concerns about LSI from the NPS Hospitality Association and others and try to resolve those concerns. The legislation provides that in 2007 the NPS will be able to readdress the issue of LSI with Congress and potentially modify how reimbursements for capital improvements are valued.
Interior	Snowmobiles in Yellowstone and Grand Teton National Parks and the John D. Rockefeller, Jr. Parkway	The NPS has selected a preferred alternative in the March 2003 Record of Decision that would require the public and commercial businesses to utilize best available engine technology for snowmobiles entering the parks (to help minimize impacts from emissions on air, sound and water), to require operators be accompanied by a guide (to help minimize conflicts between machines and animals and improve visitor safety) and to set maximum numbers of visitors to enter the park at various points (to disperse use). Most significantly, this alternative provides for adaptive management so that any one element of the alternative can be adjusted to further reduce impacts to the parks, if necessary. The NPS is expected to issue a proposed rulemaking addressing snowmobile access to the Parks in summer 2003.
Interior	Snowmobiles in the Rocky Mountain National Park	The NPS began consultation with the City of Grand Lake, snowmobile users and environmental groups early on in the development of this proposed rule and EA.

Reforms Completed or Ongoing as of December 2002		
Agency	**Regulation/ Guidance Document**	**Description**
Interior	Wild and Scenic Rivers—Water Resources Projects	The agency published proposed rules regarding water resource projects. The Wild and Scenic Rivers Act conveys authority to the Department of the Interior, and in some circumstances the USDA Forest Service, to make final determinations on Section 7 of the Act.
Interior	Cooperative Conservation Initiative	The FY 2003 budget, as enacted, increases funding to existing programs cost share programs rather than create new programs as requested in the President's budget. The submission in 2004 is expected to be similar to what Congress has enacted. Thus, no agency action is needed.
Justice	List of Terrorist Organizations	The agency does not believe that reform of this rule is necessary.
Justice	Electronic Storage of I-9 Forms	A final rule is under development.
Justice	Admission Period for B-1/B-2 Visitors	Withdrawn by agency on June 3, 2002. No further action will be taken on this rule.
Justice	Forms I-140 and I-485	The agency published an interim final rule on July 31, 2002.
Justice	I-9 Employment Verification	The proposed rule was published on February 2, 1998. The final rule is pending at the agency.
Labor	Birth and Adoption Unemployment Compensation	DOL has issued an NPRM to repeal the Birth and Adoption UC rule. The final rule has been submitted to OMB.
Labor	Family and Medical Leave Act (FMLA) Regulations	DOL has conducted stakeholder meetings and is drafting a NPRM for submission to OMB.
Labor	White Collar Exemption	DOL has conducted stakeholder meetings and drafted an NPRM, which was published March 31, 2003.
Labor	Permanent Labor Certification	ETA is currently reviewing comments received on the NPRM and developing final regulations.
Labor	Davis Bacon Act/Service Contract Act B Inclusion of Pension and Benefit Plans	ESA notes the $2,000 threshold is a statutory rather than a regulatory issue. Current SCA and DBA regulations do not prohibit the use of self-insured fringe benefit programs.
Labor	Across the Board Penalties	ESA is considering changes to the existing FMLA categorical penalty provisions as part of the ongoing FMLA regulatory review.
Labor	H-1B LCA	ESA's Wage and Hour Division is evaluating the comments received in response to the interim final rule.
Labor	Affirmative Action and EO Survey	OFCCP has engaged an outside contractor to study the EO Survey. At the conclusion of the study, anticipated to be in 2004, the Department will determine the best course of action for the EO Survey.
Labor/OSHA	Hexavalent Chromium	OSHA is under a court order to publish a final rule by 2006. They plan to initiate a SBREFA Panel in January 2004.
Labor/OSHA	Payment for Personal Protective Equipment	OSHA is considering how to address this issue.
Labor/OSHA	Exposure to Crystalline Silica	OSHA plans to initiate a SBREFA panel for this rule in September 2003.
Labor/OSHA	Tuberculosis (TB) Standard	OSHA does not plan to address this issue through rulemaking.

Reforms Completed or Ongoing as of December 2002		
Agency	**Regulation/ Guidance Document**	**Description**
Labor/OSHA	Walking/Working Surfaces	OSHA published a Notice of Reopening of the Rulemaking Record in the Federal Register in April 2003.
Labor/OSHA	Recordkeeping for Work-Related Injuries, Illnesses and Fatalities	OSHA published a final rule addressing recordkeeping requirements for MSDs on June 30, 2003.
Labor/OSHA	Ergonomics Standard	OSHA does not plan to address this issue through rulemaking. OSHA is working on industry-specific guidelines to address occupational ergonomic hazards.
DOT/FAA	Standards for Approval for High Altitude Operation of Subsonic Transport Airplanes	DOT/FAA is continuing to review this issue.
DOT/FAA	Emergency Landing Dynamic Conditions	DOT/FAA is continuing to review this issue.
DOT	Transportation Planning and Environmental Review Procedures	Environmental streamlining is a priority for FHWA and FTA. The Department has taken a number of actions to help streamline the environmental review of highway and transit projects. On September 20, 2002, FHWA and FTA partially withdrew the proposed rulemaking amending requirements on State and metropolitan planning. A final rule will be issued in 2003. After reauthorization occurs, the agencies will reconsider the need to revise their regulations.
DOT	Background Checks for Truckers Hauling Hazardous Materials	DOT is continuing to review this issue.
DOT	Commercial Vehicle Cross-Border Safety	DOT is continuing to review this issue.
DOT	Hours of Service for Truckers	FMCSA issued a final rule on April 28, 2003.
DOT/NHTSA	Corporate Average Fuel Economy (CAFE) Standards	On March 31, 2003, NHTSA issued a final rule setting new fuel economy standards for model year (MY) 2005-2007 light trucks. NHTSA has expressed its intent to consider reforms to the CAFE system, applicable to both passenger cars and light trucks, consistent with its statutory authority. Possible higher levels and/or program restructuring for CAFE for future year rulemakings will be considered, based on these criteria and other statutory provisions, as well as the impact on safety and American jobs.
DOT/NHTSA	Head Restraints	The agency has taken a comprehensive look at occupant protection in rear crashes. As part of this, NHTSA wants to ensure that the head restraint rule is coordinated with our planned proposal to upgrade seat back requirements. We anticipate publication of the final rule in 2003.

Reforms Completed or Ongoing as of December 2002		
Agency	**Regulation/ Guidance Document**	**Description**
DOT/NHTSA	Tire Pressure Monitoring Systems	A federal appellate court recently ruled that the statute mandating this rule requires a TPMS system capable of detecting significant under-inflation in any tire. The court vacated the final rule. The agency is conducting expedited rulemaking towards issuance of a final rule consistent with the court's opinion.
DOT/NHTSA	Advanced Airbags	Since the agency has only recently reviewed and rejected the proposals raised by the submitters, it does not consider this issue suitable for either review or reform at this time.
DOT/FHWA	Fuel System Safety Standard B Vehicle Fires	NHTSA expects that the final rule will be published in 2003.
DOT/NHTSA	Occupant Crash Protection	In the summer of 2003, the agency plans to issue a request for comment notice on the proposal for amending FMVSS No. 208 to include a high-speed frontal offset crash test requirement. This notice will discuss the results of preliminary tests that the agency has conducted to assess the possibility of disbenefits of the requirement, and seek comment on alternative strategies that could be coupled with a high-speed frontal offset crash test requirement. This rulemaking was the subject of an OMB prompt letter sent to NHTSA in December 2001. On May 12, 2000, NHTSA published a final rule that amended FMVSS No. 208, "Occupant Crash Protection," to upgrade the maximum belted full-frontal rigid barrier crash test requirement up to 35 mph (56 km/h) for the 50th percentile adult male test dummy beginning with MY 2008 vehicles. At that time, NHTSA indicated that it intended to initiate rulemaking that would increase the maximum belted test speed for the 5th percentile adult female test dummy in time to have both dummies tested at the higher speed starting in 2007. NHTSA is currently reviewing a draft NPRM proposing such a change to the existing requirements. The agency anticipates publishing the NPRM in 2003.

Reforms Completed or Ongoing as of December 2002		
Agency	**Regulation/ Guidance Document**	**Description**
DOT/NHTSA	Rollover Protection	Rollover is one of NHTSA's four top priority areas for which Integrated Project Teams have been established. Proposals for additional actions to prevent rollover crashes and protect occupants will be published for public comment in spring 2003. In the TREAD Act, Congress required NHTSA to provide consumer information about vehicle performance in driving conditions. We expect to publish the final notice on this by the end of FY 2003 and begin providing information to the public for 2004 model year vehicles. As a part of an international committee under the auspices of the United Nations/Economic Commission for Europe, NHTSA is currently working with other governments' experts to try to develop a global standard for the performance of door, door retention components and door locks. NHTSA expects to incorporate this international work with its own work on this subject and issue a proposed upgrade of its door latch and lock standard. We expect that the proposed upgrade will be published by early 2004.
DOT/NHTSA	Child Restraints	NHTSA is currently considering several regulatory solutions designed to address the risks experienced by children between the ages of four and ten.
DOT/NHTSA	Tire Safety	On June 26, 2003, NHTSA published a final rule to upgrade its tire performance requirements for light vehicles.
DOT/NHTSA	.08 Alcohol Incentive Program	NHTSA believes the submitter is unaware of all the provisions of the applicable regulation. NHTSA has called the submitter to explain the scope of the relevant regulation. The submitter, Wisconsin Department of Transportation, stated that NHTSA appears to be applying the compliance criteria of the interim final rule rather than the regulatory text adopted in the subsequent final rule. It noted that the interim final rule states under the 5th compliance criteria that a State must establish a 0.08 BAC per se level under its criminal code. This criteria did not appear in the regulatory text adopted under the final rule. In a subsequent telephone call with agency personnel, the Wisconsin DOT acknowledged that its concerns had already been addressed by a letter sent to it by NHTSA in July 2002. The Wisconsin DOT has no further concerns on this issue.
DOT/RSPA	Collection of Annual Registration Fees	On January 9, 2003, RSPA published a final rule reducing registration fees beginning July 1, 2003, to levels that should eliminate the unexpended balance in the Hazardous Materials Emergency Preparedness Grants Fund by 2006 and thereafter produce total receipts equivalent to the annual grants authorized by Congress.
Treasury	Alcohol Labeling	Final rule published on March 3, 2002.

Reforms Completed or Ongoing as of December 2002		
Agency	**Regulation/ Guidance Document**	**Description**
Treasury/IRS	Government Fleet Fuel Cards	The IRS and Treasury Priority Guidance Plan for the year ending June 30, 2003, includes a project to develop proposed regulations regarding claims for gasoline tax. These proposed regulations are expected to be published in the summer of 2003. The claimant suggests that the issuer of the fleet fueling card be permitted to sell the fuel tax free by reducing its future fuel tax obligation. An alternative approach would be to permit the retailer or wholesale distributor to sell the fuel at a tax-excluded price and claim a refund for the fuel tax paid.
Treasury/IRS	Interest Reporting Requirements	Treasury has issued two NPRMs on reporting on interest paid to non-resident aliens.
Treasury/IRS	Domestic Relations Tax Reform Act Rules	Treasury Decision 9035, January 13, 2003, finalized the regulation. The final regulation applies to redemptions of stock on or after January 13, 2003, that are pursuant to instruments in effect after January 13, 2003. The final regulation also applies to redemptions before January 13, 2003, or that are pursuant to instruments in effect before January 13, 2003, if the spouses or former spouses execute a written agreement on or after August 3, 2001, that satisfies the requirements of section 1.1041-2(c)(1) or (2) of the final regulations. The effective date provision in the final regulation permits taxpayers to avail themselves of the clarifying relief provided by the regulation if the taxpayers enter into an agreement as contemplated by the proposed and final regulation to specify the tax treatment agreed to by the spouses. Applying the provisions of the proposed and final regulations to taxpayers who have not entered into an agreement as contemplated by the regulations would not be consistent with sound tax administration and might result in adverse consequences to taxpayers.
EPA	Risk Management Plans (Worst Case Scenario)	EPA published the final rule on August 4, 2000.
EPA	Definition of Solid Waste	EPA expects to issue an NPRM in 2003.
EPA	RCRA Burden Reduction Initiative	EPA expects to issue a final rule in September 2003.
EPA	RCRA Subtitle C Hazardous Waste Regulations	EPA is evaluating how to address this issue given that many different regulations are involved.
EPA	Best Available Retrofit Technology	Revisions to the regional haze rule will address concerns raised by DC Circuit regarding best available retrofit technology. Final rule expected April 2005.

Reforms Completed or Ongoing as of December 2002		
Agency	**Regulation/ Guidance Document**	**Description**
EPA	1997 EPA Standards for Ozone and Particulate Matter	Regarding the Ozone NAAQS rule, EPA responded to remand on potential health benefits and issued a final rule on January 6, 2003. Regarding the implementation rule for 8-hour ozone NAAQS, EPA issued an NPRM on June 2, 2003 and a final rule is expected December 2003. Regarding the implementation rule for PM2.5 NAAQS, EPA expects to issue an NPRM in September 2003 and the final rule in September 2004.
EPA	Motor Vehicle Emission Standards for Greenhouse Gases	In October 1999, 19 groups petitioned EPA to regulate mobile source emissions of four greenhouse gases – CO2, methane, nitrous oxide, and hydroflourocarbon – to reduce the risk of climate change. EPA published a request for public comment on the petition in January 2001. The Agency received almost 50,000 comments. Agency officials are considering how to respond to the petition.
EPA	Heavy-Duty Engines and Vehicle Standards and Highway Diesel Fuel Sulfur Control Requirements	Final rule was published January 18, 2001.
EPA	Protection from Pollution from Diesel Engines	Final rule was published January 18, 2001.
EPA	Proposed Tier 2 Motor Vehicle Emission Standards and Sulfur Gasoline Control Requirements	Final rule was published February 10, 2000.
EPA	New Source Review	EPA published the Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR): Baseline Emissions Determination, Actual-to-Future-Actual Methodology, Plantwide Applicability Limitations, Clean Units, Pollution Control Projects Final Rule and the Prevention of Significant Deterioration (PSD) and Non-attainment New Source Review (NSR): Routine Maintenance, Repair and Replacement Proposed Rule on December 31, 2002. EPA received several petitions for reconsideration of the final NSR rule and is currently preparing a response. The comment period for the proposed rule closed on May 2, 2003, and EPA is currently working to draft a final Routine Maintenance, Repair and Replacement rule.

Reforms Completed or Ongoing as of December 2002		
Agency	**Regulation/ Guidance Document**	**Description**
EPA	Risk Assessment for Rodenticides	These comments have already been addressed as part of the public comment process for this preliminary risk assessment. Under the Reregistration Process, which includes several opportunities for public comments, and stakeholder meetings, EPA expects other revisions will be made before the risk assessment will be finalized and used in decision-making. Pesticide reregistration decisions will be made based on the final risk assessment, which is also presented for public comment as part of the public review process for the IRED & RED documents. OPP schedules for REDs are posted on the internet.
EPA	Ban on Chromated Copper Arsenate (CCA)	On March 17, 2003, EPA granted the cancellation and use termination requests affecting virtually all residential uses of CCA-treated wood and has issued the cancellation orders to the registrants for CCA. After December 30, 2003, CCA products cannot be used to treat lumber intended for most residential settings, including play structures, decks, picnic tables, landscaping timbers, residential fencing, patios and walkways/boardwalks. A Federal Register notice announcing the cancellation orders will be published in 2003.
EPA	RCRA Cement Kiln Dust (CKD)	Final rule expected in September 2003.
EPA	Watershed Rule (Total Maximum Daily Load)	EPA expects to issue its proposed watershed rule in 2003 and the final rule in June 2004.
EPA	TRI Lead	Final rule was promulgated in January 2001.
EPA	Arsenic in Drinking Water	The arsenic final rule was issued on January 22, 2001, and became effective on May 22, 2001.
EPA	Concentrated Animal Feeding Operations	On January 12, 2001, EPA published a proposed rule changing the Clean Water Act permitting requirements for concentrated animal feeding operations (CAFOs) and strengthening the effluent guidelines for those facilities. On February 12, 2003, EPA published the final rule on CAFOs.
EPA	Stormwater Construction General Permit	EPA expects to issue the final General Permit in 2003.
EPA	Sanitary Sewer Overflows	EPA expects to issue the proposed SSO rule in December 2003 and final rule in December 2005.
EPA	Effluent Guidelines for Metal Products and Machinery	EPA issued the proposed MP&M rule on January 3, 2001. The final MP&M Rule was issued in April 2003.
EPA	Drinking Water Standards for Emerging Contaminants	The preliminary notice was issued on June 3, 2002. The final notice is expected in 2003.
EPA	Radon in Drinking Water	EPA issued the proposed radon rule on November 2, 1999. The final radon rule is expected in December 2004.
EPA	Groundwater Rule	EPA issued the proposed rule on May 10, 2000. The final rule is expected in December 2003.
EPA	Disinfection Byproducts Rule	EPA expects to issue the proposed rule in 2003 and the final rule in July 2004.

Reforms Completed or Ongoing as of December 2002		
Agency	**Regulation/ Guidance Document**	**Description**
SBA/FAR	Contract Bundling	The proposed rule was published on January 31, 2002. The comment period ended on April 1, 2003. SBA expects to issue a final rule by the end of the year. The proposed changes would revise the definition of bundling to expressly include multiple award contract vehicles and task and delivery orders under such contracting vehicles; require procuring activities to coordinate with the Small Business Specialist (SBS) proposed acquisition strategies or plans contemplating award of a contract or order above specified dollar thresholds and require the SBS to notify the agency Office of Small and Disadvantaged Business Utilization (OSDBU) when those strategies include contract bundling that is unnecessary, unjustified, or not identified as such by the procuring activity; reduce the threshold and revise the documentation required for "substantial bundling;" require contracting officers to provide bundling justification documentation to the agency OSDBU when "substantial bundling" is involved; and require agency OSDBUs to perform certain oversight functions.
USDA	Policy on Beef Contaminated with *E. coli* O157:H7	OSHA's longstanding enforcement policy was clarified in a 1999 directive. Later this year, the Agency will provide additional examples in the directive to further clarify the responsibilities of the general or controlling contractor.
HHS	Discrimination Against Persons with LEP	A revised draft guidance was published in 2003.
DOL	Guidance on Equal Employment Opportunity	OFCCP is reviewing whether there is contradictory guidance on collection of ethnicity information between OFCCP and the U.S. Equal Employment Opportunity Commission.
DOL/OSHA	Inspection Procedures and Interpretive Guidance for Control of Hazardous Energy (Lockout/Tagout)	OSHA is working on an updated manual on Lockout/Tagout. Part I of the manual will be available for stakeholder input by the end of 2003.
DOL/OSHA	OSHA Directive CPL 2.100, Application of the Permit-Required Confined Spaces (PRCS) Standards	OSHA does not plan to revise the guidance at this time.
EPA	New Source Review	On December 31, 2002, EPA published a Prevention of Significant Deterioration (PSD) and Non-attainment New Source Review (NSR): Routine Maintenance, Repair and Replacement Proposed Rule. The comment period for the proposed rule closed on May 2, 2003, and EPA is currently working to draft a final rule.
EPA	Improving Air Quality Using Economic Incentive Programs	EPA issued guidance on January 19, 2001, and the States are now using the guidance in developing economic incentive programs.
EPA	Cancer Risk Assessment Guidance	The issue is being resolved. Proposed for final comment: March 3, 2003. Finalization by the end of 2003.

Reforms Completed or Ongoing as of December 2002		
Agency	**Regulation/ Guidance Document**	**Description**
EPA	Drinking Water Affordability	FACA Committee (NDWAC) has submitted recommendations on how to proceed. EPA is evaluating these recommendations.
EPA	Clean Water Act Jurisdiction ("SWANCC Decision")	ANPRM: January 15, 2003.
OMB	OMB Analytic Guidance	OMB's revised final guidelines are being issued as Circular A-4 (see Appendix D).
OMB	Performance of Commercial Activities	OMB published a draft revision to Circular A-76 in the Federal Register on November 19, 2002. OMB issued the final revision on May 29, 2003.
U.S. Army Corps	Wetlands Delineation Guidance Documents	The Corps, in conjunction with the Environmental Protection Agency, the Fish and Wildlife Service, and the Natural Resources Conservation Service, is updating and clarifying its 1987 Wetland Delineation Manual to provide more regionally specific guidance resulting in more precise and consistent wetland delineations.

Status of 18 PRA Violations Unresolved as of June 7, 2004					
Agency	**OMB #**	**Title**	**Expiration**	**Status**	**Burden Hours**
USDA	0563-0065	Request for Applications for Partnership Funding	N/A	Approved by OMB: 5/14/04	3,467
USDA	0563-0067	Agricultural Risk Management Education and Information: "Request for Applications"	N/A	Approved by OMB: 5/14/04	1,732
USDA	0563-0042	Agricultural Risk Management Education and Information: "Performance Reporting"	N/A	Approved by OMB: 5/14/04	64,288
USDA	0563-0066	Community Outreach and Assistance Partnership Program	N/A	Approved by OMB: 5/18/04	967
USDA	0563-New	Standard Reinsurance Agreement Plan of Operations	N/A	60-Day Fed. Reg. Notice Published	N/A
Defense	0702-0111	Army ROTC Referral Information	2/28/2003	Approved by OMB: 5/14/04	4,075
Defense	0704-0305	Telecommunications Service Priority System	9/30/2003	Submitted to OMB: 5/25/04	4,815
Defense	0704-0394	Defense Reutilization and Marketing Service Customer Comment Card	6/30/2003	Approved by OMB: 5/14/04	100
Defense	0704-0347	Request for Approval for Qualification Training and Approval of Contractor Flight Crewmember	6/30/2003	Submitted to OMB: 5/24/04	7
Defense	0703-0006	Facilities Available for the Construction or Repair of…	9/30/2002	Approved by OMB: 5/14/04	520
Defense	0720-0003	Statement of Personal Injury - Possible Third Person Liability	6/30/2002	Approved by OMB: 5/14/04	33,250
Defense	0720-0005	Professional Qualifications, Medical and Peer Reviewers	8/31/2003	Approved by OMB: 5/14/04	15
U.S. Army Corps	0710-0005	Record of Arrivals and Departures of Vessels at Marine Terminals.	9/30/2003	Submitted to OMB: 4/30/04	2,700
Commerce	0651-0017	Practitioner Records Maintenance and Disclosure Before the PTO	7/31/2003	Submitted to OMB: 3/10/04	2,270
DHS	1625–New/ 2115-0009	Standard Numbering System for Undocumented Vessels	11/30/1985	60-Day Fed. Reg. Notice Published: 4/19/04	15,507
HUD	2506-0161	Consolidated Plan - Section 108 Loan Guarantee.	1/31/2000	Approved by OMB: 4/28/04	11,250
FERC	1902-0024	Monthly Report of Cost and Quality of Fuels for Electric Plants	4/30/2003	Approved by OMB: 5/14/04	7,008
SBA	3245-New	Microloan Program Electronic Reporting System	N/A	Submitted to OMB: 6/2/04	N/A

N/A – Not Applicable. Agency began collection without obtaining initial OMB approval.

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April 28, 2004

BY FACSIMILE

The Honorable Mark W. Everson
Commissioner
Internal Revenue Service
Department of the Treasury
1111 Constitution Avenue, N.W.
Washington, DC 20224

Dear Mr. Everson:

This letter follows up on the April 20, 2004 hearing of the Subcommittee on Energy Policy, Natural Resources and Regulatory Affairs, entitled "What is the Bush Administration's Economic Growth Plan Component for Paperwork Reduction?" As discussed during the hearing, please respond to the enclosed followup questions for the record.

Please hand-deliver the agency's response to the Subcommittee majority staff in B-377 Rayburn House Office Building and the minority staff in B-350A Rayburn House Office Building not later than noon on Thursday, May 20, 2004. If you have any questions about this request, please call Subcommittee Staff Director Barbara Kahlow on 226-3058. Thank you for your attention to this request.

Sincerely,

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

Enclosure

cc: The Honorable Tom Davis
The Honorable John Tierney

Q1. OMB Review of IRS Paperwork. As former Deputy Director for Management of the Office of Management and Budget (OMB), with management responsibility for statutory compliance with the Paperwork Reduction Act (PRA) by OMB's Office of Information and Regulatory Affairs (OIRA), and as current Commissioner of the Internal Revenue Service (IRS), what steps have you taken to ensure that OMB can meet its statutory responsibility for substantive review and approval of each IRS proposed or continuing paperwork imposition on the public – i.e., to preclude OMB from falsely asserting that it is inhibited by a 1983 Memorandum of Understanding (MOU) from performing its duties to substantively review and approve each paperwork imposition; this MOU, in fact, makes no mention of and has no relevance to OMB's PRA statutory responsibility for paperwork reduction?

Q2. Thresholds. Last year's Acting IRS Commissioner witness explained that IRS was able to make a threshold change for the Schedule B because the statute afforded the IRS Commissioner discretion to set an appropriate threshold. Also, last year's Information Collection Budget (ICB) showed that IRS was able to increase the threshold from $400 to $1500 for the Schedule 1 (Form 1040A). In a May 2, 2003 post-hearing answer, the Acting Commissioner stated that the Office of Taxpayer Burden Reduction "is reviewing the regulations and all administrative provisions to identify such thresholds, elections, tolerances, etc. that could be adjusted, without requiring legislation, to reduce unnecessary taxpayer burden."

OMB's ICB includes IRS program decreases resulting from threshold changes for the Schedule B and Schedules L, M-1 and M-2 (pp. 14 & 61-2).

In your written statement, you briefly discuss this not-yet-completed analysis. You state, "we continue to identify thresholds, some of which appear to have the potential for significant burden reduction" (p. 4). Then, you provide 4 examples "of thresholds we have identified that could be changed ... through exercise of discretionary authority" but without an indication of the potential burden reduction hours associated with each of them (p. 5). Also, during the hearing, you differentiated between 3 types of discretionary thresholds, categorizing them as: "straightforward, complex, and in between." And, you stated that a complete analysis is "several years" away.

Do you have a complete list of discretionary thresholds IRS has identified to date and have you examined each of them for burden reduction opportunities? Please provide a detailed analysis for the hearing record. Also, when will IRS finish its analysis of the "straightforward" thresholds?

Q3. IRS Paperwork Reduction Initiatives in 2003-2004. OMB's April 2004 inventory shows that IRS has 806 approved information collections, imposing 6.7 **billion** hours of burden on the public. Your testimony mentions only 3 specific paperwork reduction initiatives in 2003 and 2004 with specific paperwork reduction hours, resulting in only 25 **million**

fewer hours of burden on the public: (1) expanding the use of the standard mileage rate for taxpayers with multiple vehicles (-8 to 10 million hours) (pp. 1 & 17); (2) changing the Schedule SE, Self-Employment Tax, to allow taxpayers to skip lines (-12 million hours) (p. 6); and (3) deleting 7 lines from 19 general business credit forms (-3 million hours) (p. 8). Your statement also mentions a few more initiatives but without an indication of the potential burden reduction hours associated with each of them (e.g., pp. 3, 5 & 9). OMB's ICB reports only 58 **million** hours of burden reduction in toto by IRS (p. i).

a. How many of IRS's 806 information collections were included in its proposed ICB submission to OMB for **burden reductions arising from program change** in 2003 and 2004? How many hours of burden reduction are associated with each of these initiatives?

b. OMB's ICB includes only 5 IRS initiatives resulting in program change decreases of at least -250,000 hours each (Schedule B threshold on pp. 14 & 61; Schedules L, M-1 & M-2 threshold on 14 & 61-2; & pp. 19, 57, & 61). What specific program change decreases and increases of **250,000 hours or more** did IRS submit to OMB in its proposed ICB? Please submit a full accounting for the hearing record, including specific information on each program change.

c. What steps are you taking to improve IRS's paperwork reduction performance?
   - For its Senior Executive Service (SES) employees, does IRS now include paperwork reduction in their annual performance appraisals under their executive performance agreements, as I previously recommended?
   - Did IRS make paperwork reduction a Government Performance and Results Act (GPRA) goal and target in its annual performance plan, as I previously recommended? If not, will you do so?

Q4. IRS Burden Reduction for Small Businesses. Drs. Mark Crain and Thomas Hopkins in their August 2001 Report, commissioned by the Small Business Administration (SBA), found that small firms (with less than 20 employees) spend twice as much on tax compliance as large firms (with over 500 employees): $1,202 per employee versus $562 per employee. Small businesses face more than 200 IRS forms, including more than 8,000 lines, boxes, and data requirements. In the Subcommittee's paperwork hearings in April of 1999, 2000, 2001, and 2002, former IRS Commissioner Rossotti acknowledged that there is much duplication in IRS' reporting requirements for small businesses.

What specific paperwork reduction candidates did IRS pursue in 2003 and 2004 to date and will IRS pursue in the rest of 2004 to actually reduce the paperwork burden on small businesses -- as opposed to re-estimating taxpayer burden through a new model, notice

redesigns, electronic filing, etc.? What is IRS' estimate for the burden reduction hours associated with these initiatives?

Q5. IRS's Enforcement Report. In preparation for our January 28, 2004 Small Business Paperwork Relief Act (SBPRA) hearing, the Subcommittee found that IRS accounts not only for 81 percent of all paperwork levied on the public but also for the lion's share of Federal enforcement fines and penalties levied on small business. IRS's enforcement report shows that it directs 66 percent of its enforcement actions against small business and it has only reduced or waived 12 percent of its fines and penalties levied on small business. In contrast, the three Federal agency witnesses at the Subcommittee's January 28th hearing – the Departments of Labor and Transportation (DOL and DOT) and the Environmental Protection Agency (EPA) – discussed their agencies' special policies for small business. The result was EPA's only taking 11 percent of its enforcement actions against small entities, and EPA's reducing or waiving 44 percent and DOT's reducing or waiving 34 percent of its assessed penalties against small entities. What can IRS do to more sensitive to the special burdens facing small business?

Q6. Review of Legislative Proposals for Paperwork Implications. Does the IRS systematically analyze each legislative proposal to change the tax code for its potential impact on paperwork burden? If not, why not? If so, have any Administration or Congressional legislative proposals been revised to result in less new paperwork?

Q7. Efforts to Reduce Top IRS Paperwork. OMB's April 2004 inventory reveals that IRS has 44 information collections that each impose over 10 million hours of burden on the public. 9 of these each levy over 100 million hours of burden on the public. Since last year's April 11th hearing, for how many of the "top 9" information collections has IRS proposed revisions and what is the nature of the proposed changes?

- individuals (form 1040) 1.6 billion hours
- partnerships (form 1065) 1.3 billion hours
- US S corporations (form 1120S) 493 million hours
- estates & trusts (form 1041) 411 million hours
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- depreciation & amortization (form 4562) 315 million hours
- employee's withholding (form W-4) 116 million hours

Q8. Alternative Minimum Tax Reporting. IRS's "National Taxpayer Advocate: FY 2001 Annual Report to Congress," identified computing the Alternative Minimum Tax (AMT) as one of the most serious problems encountered by taxpayers. IRS estimated that Form 6251, "Alternative Minimum Tax - Individuals," requires nearly 4 hours for each affected taxpayer to complete. Apparently, in 1998, more than 3.4 million taxpayers included

Form 6251 "just to demonstrate that they did not owe AMT" (p. 58). According to IRS records, during the 1999 filing year, paid preparers completed 93 percent of all returns with AMT.

IRS's "National Taxpayer Advocate: FY 2003 Annual Report to Congress," identified "Alternative Minimum Tax for Individuals" at **the most serious** problem encountered by taxpayers. It states, "Although the AMT was originally enacted to prevent wealthy taxpayers from avoiding tax liability ... it now affects substantial numbers of middle-income taxpayers and will ... affect more than 30 million taxpayers by 2010. In short, it is a time bomb on a short fuse" (p. 19). "Taxpayers subject to the ATM must calculate their tax liability twice, once under regular income tax rules and again under AMT rules" (p. 5). The Advocate recommends "revising the rules to align AMT more closely with its original purpose and application and take steps to reduce the complexity and burden the AMT imposes on taxpayers" (p. 17).

What plans does IRS have to further simplify the applicable law and/or Form 6251 for this 17 million hours burden?

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[OMB NO: 1545-0227     EXPIRATION DATE: 07/31/2005
RESPS:4,213,000        HOURS:16,767,740
Alternative Minimum Tax-Individuals
FORMS: 6251]
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Q9. Withholding Taxes from Independent Contractors. IRS's "National Taxpayer Advocate: FY 2003 Annual Report to Congress," identified "nonfiling and underreporting by self-employed taxpayers" as **the 2nd most serious** problem encountered by taxpayers. As a result, the Advocate proposed a new requirement for "employers" to withhold payments to certain categories of non-wage workers or independent contractors. This would attempt to cure a tax gap by imposing new paperwork burden on tax-compliant small businesses and exacerbate the already difficult problem small businesses face in distinguishing between independent contractors and employees. Do you support this Advocate proposal?

Q10. EITC Reporting. Form 8862, which is required to claim the Earned Income Tax Credit (EITC), is also unduly complicated and unutilized by the IRS. The FY 2002 National Taxpayer Advocate Report stated, "Though there is significant burden to the taxpayer in completing Form 8862, the IRS does not routinely review or utilize the form in conducting the examination" (p. 83). Moreover, the report stated that, in 1999, GAO recommended that IRS cease using this form. In an IRS May 2, 2003 post-hearing answer, IRS stated, "The Commissioner has the authority to determine the information the taxpayer must provide to show he or she is entitled to claim the EIC. ... The IRS is currently reviewing actual returns to determine the effectiveness of Form 8862 and to also determine any changes that should be made. ... Preliminary results should be available by the end of June" (pp. 10-11). The "National Taxpayer Advocate: FY 2003 Annual

Report to Congress" ranked the EITC as **the 3rd most serious** problem encountered by taxpayers.

a. As a result of IRS's study, what changes will be made to the Form 8862? And, on a base of 2.3 million hours, how many hours of paperwork burden will be reduced as a result?

b. Why must taxpayers waste their time filling out forms that the IRS does not use? How many other forms are taxpayers required to fill out that the IRS does not review?

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[OMB NO: 1545-1619     EXPIRATION DATE: 10/31/2004
RESPS:1,000,000        HOURS:2,340,000
Information to Claim Earned Income Credit After Disallowance
FORMS: 8862]
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Q11. Synchronized Thresholds for Small Business. Why not synchronize all IRS reporting thresholds for small businesses, at x# of employees, or y# of hours worked, or z# of business revenues, or some other level so that small businesses could decide a limit above which they would not like to expand? This limit could be synchronized with other agencies, such as for OSHA recordkeeping.

Q12. Reduced Frequency for Form 941. The US tax code (e.g., see 26 USC §7805(a) & 26 USC §6051(c)) provides discretion to the Treasury Department to issue a regulation to establish the frequency of employer reporting about wages paid to employees. IRS regulations (26 CFR §31.6011(a)-4) establish a quarterly reporting requirement, which is embodied in the Form 941, "Employer's Quarterly Federal Tax Return." For individuals with a household employee (maid), the tax code requires only an annual vs. quarterly Form 941 to be filed if wages are below a certain threshold (e.g., see 26 USC §3510(a)(1)).

In your written statement, you state that IRS "is studying a proposal that would allow taxpayers to file an annual [Form 941] filing option. By extending this option to taxpayers who have demonstrated compliant behavior in filing returns and payment of taxes for at least 8 quarters, and who less than $2,500 per quarter in tax liability, the initiative could affect approximately 691,000 small business taxpayers" (p. 17). What is the likelihood of implementing this proposal that could substantially reduce the 344 million hours burden of the Form 941? OMB's ICB report says that January 2006 is the target date for a decision (pp. 25 & 46)? Why not sooner?

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[OMB NO: 1545-0029     EXPIRATION DATE: 01/31/2007
RESPS:53,897,392       HOURS:343,652,930
Forms 941, 941-PR and 941-SS, Employer's Quarterly Federal Tax
Return; American Samoa, Guam, the Commonwealth of the Northern
Mariana Islands, and the U.S. Virgin Islands; Schedule B
FORMS: 941 941-PR 941-SS SCHED.B (FORM-941) SCHED.B (FORM-941-PR)]
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Q13. Timing of Schedule K-1s. Under 2003 Key Legislative Recommendations, the National Taxpayer Advocate includes "filing due date of partnerships and certain trusts." Most partnerships and trusts are not required to file their returns until April 15th. As a consequence, Schedule K-1s often do not arrive in time for the individual taxpayer to avoid requesting an extension to file his or her return. The Advocate states, "Thus, it is hardly surprising that taxpayers receiving Forms K-1 are about 5 times more likely to request filing extensions than most other taxpayers ... From the taxpayers, perspective, the preparation of extension requests is time-consuming and costly ... If all of these taxpayers prepared the 4-month extension request themselves, it would have taken them 1.9 million hours collectively" (pp. 305-6). The Advocate recommends that current law be changed for partnerships and trust to file by March 15th vs. April 15th. Do you support this Advocate proposal?

Q14. Rossotti Ideas. In the April 2003 issue of the Washingtonian magazine, former Commissioner Rossotti made several recommendations to reduce tax reporting complexity, including: (a) unifying the 4 or 5 existing definitions of a child and family; (b) eliminating the AMT; and (c) consolidating education credits. What is your reaction to these recommendations?

Q15. Health Contribution Reporting for S Corporations. For S Corporation owners, why do they need to show health share contributions on their S Corporation W-2s, and then deduct 100 percent of the same corporate health share on their individuals W-2s?

Rec'd 5/27/04

COMMISSIONER

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

May 27, 2004

The Honorable Doug Ose
Chairman
Subcommittee on Energy Policy,
Natural Resources and Regulatory Affairs
Committee on Government Reform
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

I am responding to your April 28, 2004, request for information following the April 20, 2004, hearing before your subcommittee titled, "What is the Bush Administration's Economic Growth Plan Component for Paperwork Reduction?". I have enclosed the answers to your questions.

I hope this information is helpful. If you have any questions, please contact Floyd Williams at (202) 622-4725.

Sincerely,

Mark W. Everson

Enclosure

cc: The Honorable John F. Tierney

Q1. OMB Review of IRS Paperwork. As former Deputy Director for Management of the Office of Management and Budget (OMB), with management responsibility for statutory compliance with the Paperwork Reduction Act (PRA) by OMB's Office of Information and Regulatory Affairs (OIRA), and as current Commissioner of the Internal Revenue Service (IRS), what steps have you taken to ensure that OMB can meet its statutory responsibility for substantive review and approval of each IRS proposed or continuing paperwork imposition on the public – i.e., to preclude OMB from falsely asserting that it is inhibited by a 1983 Memorandum of Understanding (MOU) from performing its duties to substantively review and approve each paperwork imposition; this MOU, in fact, makes no mention of and has no relevance to OMB's PRA statutory responsibility for paperwork reduction?

ANSWER

OMB and IRS have a close working relationship on paperwork burden reduction. Before a form is submitted to OMB, the IRS devotes considerable resources to the development of forms to minimize taxpayer burden. OMB formally reviews requests for paperwork approval only after they have gone through a comprehensive IRS review and development process. As noted in Dr. Graham's written statement, "although the primary work and responsibility in this area resides in the IRS, OMB's review of recurrent submissions from IRS over a twenty year period has had a sentinel effect and contributed positively toward curbing excess IRS paperwork."

Treasury does not have a MOU with OMB that affects OMB's review of information collections. Every IRS collection of information, whether it's a form or in a regulation, is subject to OMB review and approval under the Paperwork Reduction Act and OMB's implementing regulations. We recognize our responsibilities under the Paperwork Reduction Act and do our best to administer the tax code with the least amount of burden possible. I would note that of the 223 violations of the Act that GAO identified as occurring during fiscal year 2003, none were for the IRS despite the fact that just over 80% of the total paperwork burden is generated by the tax code.

Treasury does have a Memorandum of Agreement (MOA) with OMB that governs OMB review of IRS regulations under Executive Order 12866. I do believe that OMB's historical deference to Treasury on tax policy and regulatory matters should continue. First, OMB does not have the tax expertise that the Department of Treasury has. I think we all recognize that implementing the Code is highly technical work. I believe that work is best left to the experts in the Treasury Department. Second, the Watergate years taught us the dangers of politicizing the process of tax policy and tax administration. By deferring to Treasury, each Administration since Jimmy Carter's has insulated itself from the charge that it was using White House review of the IRS for political purposes.

Q2. Thresholds. Last year's Acting IRS Commissioner witness explained that IRS was able to make a threshold change for the Schedule B because the statute afforded the IRS Commissioner discretion to set an appropriate threshold. Also, last year's Information Collection Budget (ICB) showed that IRS was able to increase the threshold from $400 to $1500 for the Schedule B (Form 1040). In a May 2, 2003 post-hearing answer, the Acting Commissioner stated that the Office of Taxpayer Burden Reduction "is reviewing the regulations and all administrative provisions to identify such thresholds, elections, tolerances, etc. that could be adjusted, without requiring legislation, to reduce unnecessary taxpayer burden."

OMB's ICB includes IRS program decreases resulting from threshold changes for the Schedule B and Schedules L, M-1 and M-2 (pp. 14 & 61-2).

In your written statement, you briefly discuss this not-yet-completed analysis. You state, "we continue to identify thresholds, some of which appear to have the potential for significant burden reduction" (p. 4). Then, you provide 4 examples "of thresholds we have identified that could be changed ... through exercise of discretionary authority" but without an indication of the potential burden reduction hours associated with each of them (p. 5). Also, during the hearing, you differentiated between 3 types of discretionary thresholds, categorizing them as: "straightforward, complex, and in between." And, you stated that a complete analysis is "several years" away.

Do you have a complete list of discretionary thresholds IRS has identified to date and have you examined each of them for burden reduction opportunities? Please provide a detailed analysis for the hearing record. Also, when will IRS finish its analysis of the "straightforward" thresholds?

ANSWER

We do not have a complete list of all of the discretionary thresholds and their burden implications. To accurately determine the amount of potential burden reduction would require extensive work and coordination within and outside the IRS (e.g., with other governmental agencies who may have a real interest in the issue and the data). To develop a complete inventory would require that most of our burden reduction office's efforts be spent on analyzing burden reduction opportunities rather than actually selecting the most obvious ones, getting results, and exploring other opportunities. The examples we provided in our statement are thresholds that will be accurately scored for their taxpayer burden reduction impact upon completion of coordination and research. We expect that the continuous process of identifying and working actionable thresholds (either current ones or ones that could be established) will take at least three more years.

Q3. IRS Paperwork Reduction Initiatives in 2003-2004. OMB's April 2004 inventory shows that IRS has 806 approved information collections, imposing 6.7 **billion** hours of burden on the public. Your testimony mentions only 3 specific paperwork reduction initiatives in 2003 and 2004 with specific paperwork reduction hours, resulting in only 25 **million** fewer hours of burden on the public: (1) expanding the use of the standard mileage rate for taxpayers with multiple vehicles (-8 to 10 million hours) (pp. 1 & 17); (2) changing the Schedule SE, Self-Employment Tax, to allow taxpayers to skip lines (-12 million hours) (p. 6); and (3) deleting 7 lines from 19 general business credit forms (-3 million hours) (p. 8). Your statement also mentions a few more initiatives but without an indication of the potential burden reduction hours associated with each of them (e.g., pp. 3, 5 & 9). OMB's ICB reports only 58 **million** hours of burden reduction in total by IRS (p. i).

a. How many of IRS's 806 information collections were included in its proposed ICB submission to OMB for **burden reductions arising from program change** in 2003 and 2004? How many hours of burden reduction are associated with each of these initiatives?

ANSWER
See Appendix A for 2003 and Appendix B for 2004.

b. OMB's ICB includes only 5 IRS initiatives resulting in program change decreases of at least -250,000 hours each (Schedule B threshold on pp. 14 & 61; Schedules L, M-1 & M-2 threshold on 14 & 61-2; & pp. 19, 57, & 61). What specific program change decreases and increases of **250,000 hours or more** did IRS submit to OMB in its proposed ICB? Please submit a full accounting for the hearing record, including specific information on each program change.

ANSWER
See Appendix C for increases and Appendix D for reductions.

c. What steps are you taking to improve IRS's paperwork reduction performance?
   - For its Senior Executive Service (SES) employees, does IRS now include paperwork reduction in their annual performance appraisals under their executive performance agreements, as I previously recommended?

ANSWER
Burden Reduction is part of our Small Business and Self- Employed Division's strategic plan for 2003-2004, which all executives must support. But rather than making paperwork reduction a specific commitment for all SES staff for their annual performance plan appraisals, we decided to establish an office devoted to burden reduction to ensure a more focused effort and real accountability throughout the IRS. We established the Office

of Taxpayer Burden Reduction (OTBR) in January of 2002. It is part of our Small Business and Self- Employed Operating Division (SBSE). The OTBR is focusing its efforts in four major areas:

1) **Simplifying forms and publications;**
2) **Streamlining internal policies and procedures;**
3) **Promoting less burdensome rulings and laws; and**
4) **Assisting in the development of a new, more accurate burden measurement methodology.**

- Did IRS make paperwork reduction a Government Performance and Results Act (GPRA) goal and target in its annual performance plan, as I previously recommended? If not, will you do so?

  ANSWER:
  Paperwork Reduction is incorporated into the following GPRA goal:

  Improve the quality of the service provided to taxpayers in filing their tax returns. **The IRS is modernizing its work processes and expanding its partnership with individuals and organizations by providing help filing returns, increasing electronic filing options, ensuring that notices and letters are more understandable, expanding our assistance into different languages, and paying refunds faster.**

Q4. IRS Burden Reduction for Small Businesses. Drs. Mark Crain and Thomas Hopkins in their August 2001 Report, commissioned by the Small Business Administration (SBA), found that small firms (with less than 20 employees) spend twice as much on tax compliance as large firms (with over 500 employees): $1,202 per employee versus $562 per employee. Small businesses face more than 200 IRS forms, including more than 8,000 lines, boxes, and data requirements. In the Subcommittee's paperwork hearings in April of 1999, 2000, 2001, and 2002, former IRS Commissioner Rossotti acknowledged that there is much duplication in IRS' reporting requirements for small businesses.

What specific paperwork reduction candidates did IRS pursue in 2003 and 2004 to date and will IRS pursue in the rest of 2004 to actually reduce the paperwork burden on small businesses -- as opposed to re-estimating taxpayer burden through a new model, notice redesigns, electronic filing, etc.? What is IRS' estimate for the burden reduction hours associated with these initiatives?

ANSWER

In 2003 IRS completed the following paperwork burden reduction initiatives:

- **Establishment of a Standard Meal Allowance for Day Care Providers (10 million plus hours); and,**
- **Expansion of the Standard Mileage Rate, from one to up to four vehicles used for business purposes (8-10 million hours).**

The following paperwork burden reduction initiatives are currently in process:

- **Redesign of Form 941 (impacts approximately 6.6 million taxpayers; hours TBD);**
- **Redesign of Schedule K-1 for Forms 1065, 1120S and 1041(impacts approximately 23 million taxpayers; hours TBD);**
- **Simplification of Schedule D (approximately 15 million hours);**
- **Annualization of Form 941 (approximately 2 million hours);**
- **Deletion of 7 lines from each of 19 general business credit forms (approximately 3 million hours);**
- **Simplifying the S Corporation Election Process (impacts 565,000 taxpayers; hours TBD) and,**
- **Simplifying the Extensions to File Process (impacts 16 million taxpayers; hours TBD).**

The following paperwork burden reduction initiatives are in the planning stage:

- **Reducing Burden on Farmers;**
- **Redesign of Form 940 and Form 940-EZ;**
- **Creating a new withholding form for nonresident aliens – Form W4-NR;**
- **Increasing the existing $2,500 expense threshold for filing Schedule C – EZ;**
- **Revising existing Form W-4 procedures used to establish Form 941 filing requirements**

Please note until the design/remedy is finalized, the amount of burden hours reduced cannot be quantified.

Q5. IRS's Enforcement Report. In preparation for our January 28, 2004 Small Business Paperwork Relief Act (SBPRA) hearing, the Subcommittee found that IRS accounts not only for 81 percent of all paperwork levied on the public but also for the lion's share of Federal enforcement fines and penalties levied on small business. IRS's enforcement report shows that it directs 66 percent of its enforcement actions against small business and it has only reduced or waived 12 percent of its fines and penalties levied on small business. In contrast, the three Federal agency witnesses at the Subcommittee's January 28th hearing – the Departments of Labor and Transportation (DOL and DOT) and the Environmental Protection Agency (EPA) – discussed their agencies' special policies for small business. The result was EPA's only taking 11 percent of its enforcement actions against small entities, and EPA's reducing or waiving 44 percent and DOT's reducing or

waiving 34 percent of its assessed penalties against small entities. What can IRS do to more sensitive to the special burdens facing small business?

ANSWER

Each Federal Agency defines "small business" differently. The IRS's definition is very broad and includes all business entities with net assets below $10 million, approximately 45 million taxpayers. Thus comparisons to other agencies are misleading. Moreover, there are numerous federal tax compliance requirements within each tax year. This increases the potential for multiple enforcement actions. Nonetheless, the IRS has worked, and is working, hard to reduce the number of penalties that are assessed. We continue to strive to balance enforcement, fairness and the need to promote voluntary compliance.

Q6. Review of Legislative Proposals for Paperwork Implications. Does the IRS systematically analyze each legislative proposal to change the tax code for its potential impact on paperwork burden? If not, why not? If so, has any Administration or Congressional legislative proposals been revised to result in less new paperwork?

ANSWER

The primary responsibility for development of legislative proposals resides with the Office of Tax Policy within the Treasury Department. On matters that involve tax administration, we work closely with that office and, certainly, one of the factors considered is how a provision can be drafted in a way that does not unduly increase complexity or burden for taxpayers.

Because the Congress wanted to hear more from the IRS on tax administration issues, it enacted a provision in the IRS Restructuring and Reform Act of 1998, requiring a tax law complexity analysis with respect to current legislation. The staff of the Joint Committee on Taxation, in consultation with the Treasury Department and the IRS, performs the complexity analysis on tax law provisions of widespread applicability to individuals or small businesses. Among other things, this analysis looks at the extent to which tax forms would have to be revised and whether additional record-keeping burdens would be placed on taxpayers.

Q7. Efforts to Reduce Top IRS Paperwork. OMB's April 2004 inventory reveals that IRS has 44 information collections that each imposes over 10 million hours of burden on the public. 9 of these each levy over 100 million hours of burden on the public. Since last year's April 11th hearing, for how many of the "top 9" information collections has IRS proposed revisions and what is the nature of the proposed changes?

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- employee's withholding (form W-4) 116 million hours

ANSWER:
The IRS has been working on a large number of simplification projects that will reduce the paperwork burden imposed by the nine most burdensome information collections. These initiatives were previously identified in the answer to Question #4.

In 2003 IRS completed the following paperwork burden reduction initiatives:
- **Establishment of a Standard Meal Allowance for Day Care Providers (10 million plus hours); and,**
- **Expansion of the Standard Mileage Rate, from one to up to four vehicles used for business purposes (8-10 million hours).**

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- **Simplifying the S Corporation Election Process (impacts 565,000; hours TBD) and,**
- **Simplifying the Extensions to File Process (impacts 16 million taxpayers; hours TBD).**

Among the paperwork burden reduction initiatives in the planning stage affecting these nine forms are:

- **Creating a new withholding form for nonresident aliens – Form W4-NR;**
- **Increasing the existing $2,500 expense threshold for filing Schedule C – EZ**
- **Revising existing Form W-4 procedures used to establish Form 941 filing requirements**

Q8. Alternative Minimum Tax Reporting. IRS's "National Taxpayer Advocate: FY 2001 Annual Report to Congress," identified computing the Alternative Minimum Tax (AMT) as one of the most serious problems encountered by taxpayers. IRS estimated that Form 6251, "Alternative Minimum Tax - Individuals," requires nearly 4 hours for each affected taxpayer to complete. Apparently, in 1998, more than 3.4 million taxpayers included

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[OMB NO: 1545-0227     EXPIRATION DATE: 07/31/2005
RESPS: 4,213,000       HOURS: 16,767,740
Alternative Minimum Tax-Individuals
FORMS: 6251]
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ANSWER

For tax year 2002, we reduced complexity and taxpayer burden by eliminating 11 lines on Form 6251. We accomplished this by eliminating unnecessary subtotal lines and consolidating other lines. We estimate that 4.2 million taxpayers will benefit from these changes and paperwork burden will be reduced by more than 1 million hours.

The National Taxpayer Advocate submits her recommendations directly to the Congress without the filter of Treasury or OMB because the Congress wanted to hear directly from the Advocate. While the IRS would welcome reduction in the complexity and burden that AMT imposes on taxpayers, it is the Office of Tax Policy at the Treasury Department that develops the Administration's tax proposals. I understand that the AMT issue is an important priority for the Treasury Department.

Q9. Withholding Taxes from Independent Contractors. IRS's "National Taxpayer Advocate: FY 2003 Annual Report to Congress," identified "nonfiling and underreporting by self-employed taxpayers" as **the 2nd most serious** problem encountered by taxpayers. As a result, the Advocate proposed a new requirement for "employers" to withhold payments to certain categories of non-wage workers or independent contractors. This would attempt to cure a tax gap by imposing new paperwork burden on tax-compliant small

businesses and exacerbate the already difficult problem small businesses face in distinguishing between independent contractors and employees. Do you support this Advocate proposal?

ANSWER
While withholding on certain payments to independent contractors could have the salutary effect of boosting tax compliance, it could also, as you point out, increase paperwork for those businesses that would have to undertake this requirement. As I stated at the hearing, rather than adopting this proposal, Congress should give us the resources we need and the President has requested, to bolster enforcement.

Q10. EITC Reporting. Form 8862, which is required to claim the Earned Income Tax Credit (EITC), is also unduly complicated and unutilized by the IRS. The FY 2002 National Taxpayer Advocate Report stated, "Though there is significant burden to the taxpayer in completing Form 8862, the IRS does not routinely review or utilize the form in conducting the examination" (p. 83). Moreover, the report stated that, in 1999, GAO recommended that IRS cease using this form. In an IRS May 2, 2003 post-hearing answer, IRS stated, "The Commissioner has the authority to determine the information the taxpayer must provide to show he or she is entitled to claim the EIC. ... The IRS is currently reviewing actual returns to determine the effectiveness of Form 8862 and to also determine any changes that should be made. ... Preliminary results should be available by the end of June" (pp. 10-11). The "National Taxpayer Advocate: FY 2003 Annual Report to Congress" ranked the EITC as **the 3rd most serious** problem encountered by taxpayers.

a. As a result of IRS's study, what changes will be made to the Form 8862? And, on a base of 2.3 million hours, how many hours of paperwork burden will be reduced as a result?

ANSWER
We completed a comprehensive review of this form using the results of the research report on recertification and recommendations from the Taxpayer Advocacy Panel EITC Subcommittee. The EITC Subcommittee is comprised of citizens who volunteer their time to improve the EITC. We also have drafted a preliminary version of the revised form that will reduce burden and make it much easier to understand. The revised form results in a program change decrease of 1,210,000 hours. The form will serve as "self check" for the taxpayer to determine if they now qualify for the EITC. In addition, we are studying our entire EITC examination process and will consider during this review how we can better incorporate the information obtained from the redesigned form in our exam process.

b. Why must taxpayers waste their time filling out forms that the IRS does not use? How many other forms are taxpayers required to fill out that the IRS does not review?

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[OMB NO: 1545-1619     EXPIRATION DATE: 10/31/2004
RESPS: 1,000,000       HOURS: 2,340,000
Information to Claim Earned Income Credit After Disallowance
FORMS: 8862]
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ANSWER

All tax forms are potentially subject to review after they are filed. Moreover, the information on the forms often provides useful statistical and research data. Having said this, however, we are constantly seeking ways to simplify forms so that we can reduce burden on taxpayers.

Q11. Synchronized Thresholds for Small Business. Why not synchronize all IRS reporting thresholds for small businesses, at x# of employees, or y# of hours worked, or z# of business revenues, or some other level so that small businesses could decide a limit above which they would not like to expand? This limit could be synchronized with other agencies, such as for OSHA recordkeeping.

ANSWER

The Internal Revenue Code does not generally distinguish between small businesses and large businesses. That is, most benefits and requirements apply to businesses without regard to the size of the business. Moreover, Congress has established most thresholds that apply to various provisions of the law. Accordingly, the IRS has little or no discretion. We will, however, continue to explore the issue of thresholds to determine whether there are additional discretionary thresholds that could be changed to reduce taxpayer burden.

Q12. Reduced Frequency for Form 941. The US tax code (e.g., see 26 USC §7805(a) & 26 USC §6051(c)) provides discretion to the Treasury Department to issue a regulation to establish the frequency of employer reporting about wages paid to employees. IRS regulations (26 CFR §31.6011(a)-4) establish a quarterly reporting requirement, which is embodied in the Form 941, "Employer's Quarterly Federal Tax Return." For individuals with a household employee (maid), the tax code requires only an annual vs. quarterly Form 941 to be filed if wages are below a certain threshold (e.g., see 26 USC §3510(a)(1)).

In your written statement, you state that IRS "is studying a proposal that would allow taxpayers to file an annual [Form 941] filing option. By extending this option to taxpayers who have demonstrated compliant behavior in filing returns and payment of taxes for at least 8 quarters, and who less than $2,500 per quarter in tax liability, the initiative could affect approximately 691,000 small business taxpayers" (p. 17). What is the likelihood of implementing this proposal that could substantially reduce the 344 million hours burden of the Form 941? OMB's ICB report says that January 2006 is the

target date for a decision (pp. 25 & 46)? Why not sooner?

[OMB NO: 1545-0029 EXPIRATION DATE: 01/31/2007
RESPS: 53,897,392 **HOURS: 343,652,930**
Forms 941, 941-PR and 941-SS, Employer's Quarterly Federal Tax Return; American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the U.S. Virgin Islands; Schedule B
FORMS: 941 941-PR 941-SS SCHED.B (FORM-941) SCHED.B (FORM-941-PR)]

ANSWER
Because of significant compliance concerns and the estimation processes used by the Social Security Administration, it is not possible to implement a burden reduction initiative that would annualize the filing of the form 941 for a large number of taxpayers. Nonetheless, we have developed a proposal, as a first step, that targets the smallest business taxpayers who have demonstrated compliant behavior. There is a very strong likelihood of implementing this proposal. We estimate that the Annual Form 941 option for this target group will reduce taxpayer burden hours by approximately 2,080,000 hours. Implementation for January 2006, or January 2007, is anticipated, dependent on systems capabilities.

Q13. Timing of Schedule K-1s. Under 2003 Key Legislative Recommendations, the National Taxpayer Advocate includes "filing due date of partnerships and certain trusts." Most partnerships and trusts are not required to file their returns until April 15th. As a consequence, Schedule K-1s often do not arrive in time for the individual taxpayer to avoid requesting an extension to file his or her return. The Advocate states, "Thus, it is hardly surprising that taxpayers receiving Forms K-1 are about 5 times more likely to request filing extensions than most other taxpayers ... From the taxpayers, perspective, the preparation of extension requests is time-consuming and costly ... If all of these taxpayers prepared the 4-month extension request themselves, it would have taken them 1.9 million hours collectively" (pp. 305-6). The Advocate recommends that current law be changed for partnerships and trust to file by March 15th vs. April 15th. Do you support this Advocate proposal?

ANSWER
On the one hand, the Advocate's proposal would give individual taxpayers more time before April 15th to file their individual tax returns. On the other hand, it may be difficult for some partnerships to gather all the information they need in order to file by March 15th. This is a matter I would defer to the Treasury Department, which is responsible for developing the Administration's tax policy proposals.

Q14. Rossotti Ideas. In the April 2003 issue of the Washingtonian magazine, former Commissioner Rossotti made several recommendations to reduce tax reporting complexity, including: (a) unifying the 4 or 5 existing definitions of a child and family; (b) eliminating the AMT; and (c) consolidating education credits. What is your reaction to these recommendations?

ANSWER

The Administration has proposed both the establishment of a uniform definition of a qualifying child and consolidation of the various education tax credits. I heartily endorse both of these proposals. There is no doubt that elimination of the AMT would make the tax law less complex, but I will defer to the Treasury Department on whether it is a good idea from a tax policy standpoint.

Q15. Health Contribution Reporting for S Corporations. For S Corporation owners, why do they need to show health share contributions on their S Corporation W-2s, and then deduct 100 percent of the same corporate health share on their individuals W-2s?

ANSWER

S corporations, like partnerships, are pass-through entities. Because the corporation and its shareholders are treated as separate entities under the law, items of income, deduction, credits, etc., generally must be reported at the corporate level and then passed through to the shareholders to be reported on their individual income tax returns. Thus, items that are shown on the corporate return are picked up by the individual shareholders and shown on their individual returns. Specifically, the S corporation reports the health insurance premiums as wages in box 1 and as an item of information in box 14 of the W2. In general, the individual shareholder may deduct 100 percent of his or her pro-rata share of the health insurance premiums on line 29 of Form 1040. There may be situations, however, in which the shareholder may not be able to deduct the full amount of health insurance premiums. For example, the deduction may not be claimed for any calendar month in which the taxpayer is eligible to participate in any subsidized health plan maintained by any employer of the taxpayer (or the taxpayer's spouse).

Appendix A

FY 2003

Form Number	OMB#	Program Change Decrease
T	1. 1545-0007	-44,770
T	2. 1545-0007	-116,920
706	3. 1545-0015	-17,550
709-A	4. 1545-0021	-8,330
712	5. 1545-0022	-600
720	6. 1545-0023	-58,525
720	7. 1545-0023	-211
940 and 940-PR	8. 1545-0028	-32,401
2688	9. 1545-0066	-14,530
1040	10. 1545-0074	-12,776,046
1040A	11. 1545-0085	-5,189,602
1040A	12. 1545-0085	-1,612,553
1040-SS & 1040-PR	13. 1545-0090	-222,640
1045	14. 1545-0098	-652
1120	15. 1545-0123	-33,756,031
1120-F	16. 1545-0126	-79,122
1120-POL	17. 1545-0129	-1,893
1120S	18. 1545-0130	-14,262,930
1128	19. 1545-0134	-2,148
1128	20. 1545-0134	-9,028
2210, 2210-F	21. 1545-0140	-2,000
2220	22. 1545-0142	-856,440
3206	23. 1545-0153	-15,620
3468	24. 1545-0155	-225
4255	25. 1545-0166	-200
4461,4461-A,4461-B	26. 1545-0169	-90
4626	27. 1545-0175	-9,600
5452	28. 1545-0205	-3,315
5712, 5712-A	29. 1545-0215	-620
6251	30. 1545-0227	-84,260
7004	31. 1545-0233	-1,091,855
730	32. 1545-0235	-6,998
706-CE	33. 1545-0260	-23
2163 (c)	34. 1545-0274	-4,000
4506-A	35. 1545-0495	-2,400
706-NA	36. 1545-0531	-7
6765	37. 1545-0619	-34,005
Nonform	38. 1545-0736	-10,010
5498	39. 1545-0747	-812,082
8281	40. 1545-0887	-5
1120-A	41. 1545-0890	-3,378,388

1120-W	42. 1545-0975	-549,735
990-W	43. 1545-0976	-623
8610	44. 1545-0990	-564
8606	45. 1545-1007	-27,050
1041-T	46. 1545-1020	-20
8611	47. 1545-1035	-14
9003	48. 1545-1065	-77,750
8379	49. 1545-1210	-3,000
1040 Telefile	50. 1545-1277	-102,000
Nonform	51. 1545-1312	-1,000
8843	52. 1545-1411	-2,775
8023	53. 1545-1428	-1,489
945,945-A,945-V	54. 1545-1430	-157,678
Nonform	55. 1545-1432	-241,667
Nonform	56. 1545-1466	-1,041,645
9779, etc,	57. 1545-1467	-723,406
1040NR-EZ	58. 1545-1468	-3,014
5304, 5305 SIMPLE	59. 1545-1502	-2,127,000
Nonform	60. 1545-1506	-550
Nonform	61. 1545-1520	-177,986
Nonform	62. 1545-1522	-305,230
Nonform	63. 1545-1535	-3,069
Nonform	64. 1545-1539	-10,000
Nonform	65. 1545-1541	-550
8839	66. 1545-1552	-818
8853	67. 1545-1561	-1,200
8860	68. 1545-1606	-144
5500	69. 1545-1610	-4
8862	70. 1545-1619	-420,000
Nonform	71. 1545-1670	-200
Nonform	72. 1545-1674	-408,563
2031	73. 1545-1679	-3,000
Nonform	74. 1545-1682	-160
Nonform	75. 1545-1685	-1,249
Nonform	76. 1545-1686	-500
Nonform	77. 1545-1688	-2,230
8871,8453-X	78. 1545–1693	-15,850
8872	79. 1545-1696	-370,800
8873	80. 1545-1722	-520,000
Nonform	81. 1545-1768	-11,000
Nonform	82. 1545-1782	-6,613
Nonform	83. 1545-1782	-5,671
Nonform	84. 1545-1787	-5,319
Nonform	85. 1545-1789	-534
8886	86. 1545-1800	-490
8886	87. 1545-1800	-850

Nonform	88. 1545-1802	-200
Nonform	89. 1545-1803	-2,000
8887	90. 1545-1808	-123,000
8856	91. 1545-1830	-40,500
Nonform	92. 1545-1838	-15
Nonform	93. 1545-1839	-10
	TOTAL	-82,017,360

Appendix B

2004

Form Number	OMB#	Program Change Decrease
851	1. 1545-0025	-5,360
926	2. 1545-0026	-1,210
973	3. 1545-0044	-365
1099-DIV	4. 1545-0110	-3,692,519
1116	5. 1545-0121	-3,319
1120S	6. 1545-0130	-3,550
2210, 2210F	7. 1545-0140	-186,000
2220	8. 1545-0142	-62,478
2848	9. 1545-0150	-176,000
"	10. 1545-0150	-7,500
3115	11. 1545-0152	-1,461,200
4255	12. 1545-0166	-200
7004	13. 1545-0233	-1,091,855
4506	14. 1545-0429	-681,977
nonform	15. 1545-0534	-88,200
990T	16. 1545-0687	-27,085
5074	17. 1545-0803	-2
1120-DISC	18. 1545-0938	-492
1041ES	19. 1545-0971	-120,000
8582CR	20. 1545-1034	-41,100
8804, 8805, 8813	21. 1545-1119	-13,100
nonform	22. 1545-1312	-1,000
9465	23. 1545-1350	-22,800
Nonform	24. 1545-1390	-40
"	25. 1545-1515	-500
"	26. 1545-1563	-35,000
8854	27. 1545-1567	-320
Nonform	28. 1545-1625	-18,000
8873	29. 1545-1723	-1
Nonform	30. 1545-1728	-5,950
"	31. 1545-1768	-500
"	32. 1545-1812	-1
8802	33. 1545-1817	-18,000
8734	34. 1545-1836	-90,240
Nonform	35. 1545-1857	-60,000
Nonform	36. 1545-1860	-50
8453S	37. 1545-1867	-17,539,470
	TOTAL	-25,455,384

Appendix C
Examples of Significant Burden Changes
FY 2003

Increases

Other Increases

OMB#:	**1545-0029**
Title:	**2003 Forms 941, 941-PR and 941-SS, Employer's Quarterly Federal Tax Return**
Purpose of the Collection:	**Form 941 is used by employers to report payments made to employees subject to income and social security/Medicare taxes and the amounts of these taxes. Employers in Puerto Rico to report social security and Medicare taxes only use Form 941-PR. Employers in the U.S. possessions to report social security and Medicare taxes only use Form 941-SS.**
Why Increase Occurred:	**IRS revised the text under "Third Party Designee" on page 4 of the instructions to require a statement to terminate the third party designee authorization. This change resulted in a program change of 5,566,131 hours.**
Change in Burden:	**+5,566,131 hours.**

Statutory Increases

OMB#:	**1545-0074**
Title:	**2003 Form 1040 and Schedules, U.S. Individual Income Tax Return**
Purpose of the Collection:	**Individual taxpayers to report their taxable income and calculate their correct tax liability use this form.**
Why Increase Occurred:	**IRS added and deleted lines, worksheets, Code references in the form, instructions, and schedules to implement new Code sections created by the JGTRRA. For example, line 9b was added for qualified dividends to reflect new Code section 1(h)(11). Line 13b is added for Post-May 5 capital gain distributions to reflect Code sections 1(h)(1)(B) and 1(h)(1)(C).**

	This will result in a program change increase of 15,974,817 hours. Other Reductions IRS made other changes to Form 1040, instructions and schedules. Also, the new number of filers for Form 1040-V should have been placed in the adjustment column instead of the program column, resulting in a program change decrease of 210,549 hours. The net program change decrease for other reductions is 9,875,098 hours. All of the changes produced a program change increase of 6,099,719 hours.
Change in Burden:	+6,099,719 hours.
Statute Title and P.L.#:	The Jobs and Growth Tax Relief Reconciliation Act of 2003 Public Law 108-27

Statutory Increases

OMB#:	1545-0074
Title:	2002 Form 1040 and Schedules, U.S. Individual Income Tax Return
Purpose of the Collection:	Individual taxpayers to report their taxable income and calculate their correct tax liability use this form.
Why Increase Occurred:	Statutory Increases Editorial changes were made to the Form 1040 instructions and Schedule E instructions. Two Code references were added, resulting in a program change increase of 8,268,335 hours. Other Reductions The checkboxes on line 6 of the newly added 2001 Capital Gain Tax Worksheet, Schedule J, have been deleted to prevent taxpayer confusion with the other two worksheets in these instructions. The program changes made due to IRS resulted in a program change decrease of 800 hours. The net program change increase is 8,269,155 hours.
Change in Burden:	+8,269,155 hours.
Statute Title and P.L.#:	Schedule E instructions (section 679) and Form 1040 instructions (section 457(b)).

Other Increases

OMB#:	**1545-0074**
Title:	**2003 Form 1040 and Schedules, U.S. Individual Income Tax Return**
Purpose of the Collection:	**Individual taxpayers to report their taxable income and calculate their correct tax liability use this form.**
Why Increase Occurred:	**IRS made changes to Schedule EIC. We added back the line (originally present on the 2002 version but removed at the beginning of the 2003 forms development cycle) on Schedule EIC, Earned Income Credit, for the child's year of birth. The add back was done at the request of Criminal Investigation because its removal greatly increased the potential for EIC fraud. It was added as line 2b so line number references would not change. This will result in a program change increase of 321,632 hours.**
Change in Burden:	**+321,632 hours**

Statutory Increases

OMB#:	**1545-0085**
Title:	**2002 Form 1040A and Schedules, U.S. Individual Income Tax Return**
Purpose of the Collection:	**Individual taxpayers to report their taxable income and calculate their correct liability use this form.**
Why Increase Occurred:	**Statutory Increases Editorial changes were made throughout the instructions. Two Code sections were added. This will result in a program change increase of 4,219,190 hours. Other Reductions Two checkboxes on the Social Security Benefits Worksheet for clarification purposes were removed to reduce burden, and provide consistency with various products. IRS, resulting in a program change decrease of 992,721 hours, requested the changes. All of the above changes resulted in a program change increase of 3,226,439 hours.**
Change in Burden:	**+3,226,439 hours.**
Statute Title and P.L.#:	**Code Sections 403(b) and 501(c)**

Statutory Increases

OMB#: 1545-0085

Title: 2003 Form 1040A and Schedules, U.S. Individual Income Tax Return

Purpose of the Collection: Individual taxpayers to report their taxable income and calculate their correct liability use this form.

Why Increase Occurred: Statutory Increases IRS added and deleted lines, worksheets, and Code references to implement new Code sections created by the JGTRRA. For example, Line 9b was added for qualified dividends to reflect new code section 1(h)(11). Line 10b was added for Post-May 5 capital gain distributions to reflect Code sections 1(h)(1)(b) and 1(h)(1)(C). This will result in a program change increase of 12,167,960 hours. Other Reductions IRS made other changes to Form 1040A and its schedules and revised the instructions, including a worksheet from Publication 596. This will result in a program change decrease of 2,040,632 hours. All of these changes produced a net program change increase of 10,127,328 hours.

Change in Burden: +10,127,328 hours.

Statute Title and P.L.#: The Jobs and Growth Tax Relief Reconciliation Act of 2003 P.L. 108-27

Statutory Increases

OMB#: 1545-0092

Title: 2002 Form 1041 and Schedules, U.S. Income Tax Return for Estates and Trusts

Purpose of Collection: IRC section 6012 requires that an annual income tax return be filed for estates and trusts. Data is used to determine that the estates, trusts, and beneficiaries filed the proper returns and paid the correct tax. IRC section 59 requires the fiduciary to compute the distributable net income on a minimum tax basis.

Why Increase Occurred: Statutory Increases IRS added and deleted lines and Code

references to Schedule D primarily due to the Taxpayer Relief Act of 1997. Also, IRS added and deleted lines to Form 1041, resulting in a program change increase of 2,272,477 hours. Reduction - Changing Forms Schedule I was revised as part the Taxpayer Burden Reduction Initiative, resulting in a program change decrease of 1,492,190 hours. The net change increase is 780,287 hours.

Change in Burden: **+780,287 hours.**

Statute Title and P.L. #: **Taxpayer Relief Act of 1997**
P.L. 105-34

Statutory Increases

OMB#: **1545-0099**

Title: **2002 Form 1065, Schedules, and Instructions, U.S. Return Of Partnership Income**

Purposes of the Collection: **IRS to verify correct reporting of partnership items and for general statistics uses Form 1065. Partners to determine the income, loss, credits, etc., to report on their tax returns, use the information.**

Why Increase Occurred: **Statutory Increases Changes occurred for 2002 throughout the form, schedules, and instructions by adding 2 lines, 7 Code references, and 1 form attachment, and the deletion of 3 Code references. This will result in a program change increase of 9,136,615 hours. Other Increases IRS requested the change. On Schedule M-2, the line "Capital Contributed" is now split into "Cash" and "Property." This will result in a program change increase of 666,824 hours. The net program change increase is 9,803,439 hours.**

Change in Burden: **+9,803,439 hours.**

Statute Title and P.L.#: **2000 Community Renewal Act**
P.L. 106-554

Statutory Increases

OMB#: **1545-0110**
Title: **2003 Form 1099-DIV, Dividends and Distributions**

Purpose of the Collection:	**Form 1099-DIV is used by the Service to insure that dividends are properly reported as required by Code section 6042 and the liquidation distributions are correctly reported as required by Code section 6043, and to determine whether payees are correctly reporting their income.**
Why Increase Occurred:	**Changes made by the Jobs and Growth Tax Relief Reconciliation Act of 2003 (P.L. 108-27) that were effective after December 31, 2002, required redesign of Form 1099-DIV for 2003. This will result in a program change increase of 7,385,039 hours.**
Change in Burden:	**+7,385,039 hours.**
Statute Title and P.L.#:	**The Jobs and Growth Tax Relief Reconciliation Act of 2000 P.L. 108-27**

Statutory Increases

OMB#:	**1545-0130**
Title:	**2002 Form 1120S and Schedules, U.S. Income Tax Return for an S Corporation**
Purpose of the Collection:	**Form 1120S and its schedules are used by S corporations to figure their tax liability and report their income and other tax-related information. IRS uses the information to determine the correct tax for S corporations and their shareholders.**
Why Increase Occurred:	**Statutory Increases Changes were made by adding 5 Code references and 1 form attachment, and deleting 1 Code reference to Form 1120S instructions, and adding 1 Code reference and deleting 4 Code references to Form 1120(Schedule D). This will result in a program change increase of 5,035,690 hours. Other Reductions IRS requested the changes. Part III-Capital Gains Tax (Schedule D) is deleted because it is no longer relevant. One line is added to Form 1120S (Schedule B). This will result in a program change decrease of 585,430 hours. All of the above changes resulted in a program change increase of 4,450,260 hours.**
Change in Burden:	**+4,450,260 hours.**

Statute Title and P.L.#: **2000 Community Renewal Act**
P.L. 106-554

Statutory Increases

OMB#:	**1545-0130**
Title:	**2003 Form 1120S and Schedules, U.S. Income Tax Return for an S Corporation**
Purpose of the Collection:	**Form 1120S and its schedules are used by S corporations to figure their tax liability and report their income and other tax-related information. IRS uses the information to determine the correct tax for S corporations and their shareholders.**
Why Increase Occurred:	**Revisions were made as a result of the Jobs and Growth Tax Relief Reconciliation Act of 2003. For example, Schedule D and K-1, added column (g) for Post-May 5 gain or (loss). A net of 12 lines and 1 Code reference were added for Schedule D and, a total of 4 lines were added and 2 lines deleted for Schedule K-1. The net program change increase is 7,383,900 hours.**
Change in Burden:	**+7,383,900**
Statute Title and P.L. #:	**The Jobs and Growth Tax Relief Reconciliation Act of 2003 P.L. 108-27**

Statutory Increases

OMB#:	**1545-0142**
Title:	**2003 Form 2220, Underpayment of Estimated Tax by Corporations**
Purpose of the Collection:	**Form 2220 is used by corporations to determine whether they are subject to the penalty for underpayment of estimated tax and, if so, the amount of the penalty. The IRS uses Form 2220 to determine if the penalty was correctly computed.**
Why Increase Occurred:	**Changes made by the Jobs and Growth Tax Relief Reconciliation Act of 2003 (P.L. 108-27) that were effective after December 31, 2002, required redesign of Form 2220 for 2003. This will result in a program change increase of 5,625,865 hours.**

Change in Burden:	**+5,625,865 hours.**
Statute Title and P.L.#	**The Jobs and Growth Relief Reconciliation Act of 2003 P.L. 108-27**

Other Increases

OMB#:	**1545-0146**
Title:	**2002 Form 2553, Election by a Small Business Corporation**
Purpose of the Collection:	**A qualifying corporation to elect to be an S corporation as defined Code section 1361 files Form 2553. The information obtained is necessary to determine if the IRS should accept the election. When the election is accepted, the qualifying corporation is classified as an S corporation and the corporation's income is taxed to the shareholders of the corporation.**
Why Increase Occurred:	**Changes are based on the supplementation of Revenue Procedures 97-32, 2002-38, and 2002-39. Three lines and five Code references were added and three Code references were deleted. This will result in a program change increase of 670,000 hours.**
Change in Burden:	**+670,000 hours.**

Statutory Increases

OMB#:	**1545-0191**
Title:	**2003 Form 4952, Investment Interest Expense Deduction**
Purpose of the Collection:	**Taxpayers who paid or accrued interest on money borrowed to purchase or carry investment property use Form 4952. The form is used to compute the allowable deduction for interest on investment indebtedness and the information obtained is necessary to verify the amount actually deducted.**
Why Increase Occurred:	**Changes were made due to the Jobs and Growth Tax Relief Reconciliation Act of 2003. The number of filers changed due to this Act. Lines, records, length of form were added and**

	Code references and words deleted. All of these changes produced a program increase of 984,550 hours.
Change in Burden:	**+984,550 hours**
Statute Title and P.L. #:	**The Jobs and Growth Tax Relief Reconciliation Act of 2003 P.L. 108-27**

Statutory Increases

OMB#:	**1545-0227**
Title:	**2003 Form 6251, Alternative Minimum Tax–Individuals**
Purpose of the Collection:	**Individuals with adjustments, tax preference items, use Form 6251 taxable income above certain exemption amounts, or certain credits. Form 6251 computes the alternative minimum tax, which is added to regular tax. The information is needed to ensure the taxpayer is complying with the law.**
Why Increase Occurred:	**Changes were made throughout the form and instructions by adding lines and Code references by The Jobs and Growth Tax Relief Reconciliation Act of 2003. This will result in a program change increase of 1,011,120 hours.**
Change in Burden:	**+1,011,120 hours**
Statute Title and P.L.#:	**The Jobs and Growth Tax Relief Reconciliation Act of 2003 P.L. 108-27**

Statutory Increases

OMB#:	**1545-0233**
Title:	**Form 7004, Application for Automatic Extension of Time To File Corporation Income Tax Return**
Purpose of the Collection:	**Corporations and certain nonprofit institutions to request an automatic 6-month extension of time to file their income tax returns use Form 7004. The information is needed by IRS to determine whether Form 7004 was timely filed so as not to impose a late filing penalty in error and also to insure that the proper amount of tax was computed and deposited.**

Why Increase Occurred:	**Editorial changes were made to the instructions to make them more clearly in a yearly update by reviewing the ok-to-print package. This will result in a program change increase of 443,228 due to the addition of 2 Code references.**
Change in Burden:	**+443,228 hours**
Statute Title and P.L.#:	**Existing Code sections**

Statutory Increases

OMB#:	**1545-0715**
Title:	**2003 Form 1099-B, Proceeds From Broker and Barter Exchange Transactions**
Purpose of the Collection:	**Brokers use Form 1099-B and barter exchanges to report proceeds from transactions to the Internal Revenue Service.**
Why Increase Occurred:	**Changes made by the Jobs and Growth Tax Relief Reconciliation Act of 2003 (P.L. 108-27) that were effective after December 31, 2002, required redesign of Form 1099-B for 2003. The tax rates on net capital gains were reduced to 15%, 5% for some individuals, for transactions after May 5, 2003. The redesign was to allow Post-May 5, 2003 reporting of amounts realized, or treated as realized and the aggregate profit and loss for 2003, for regulated futures contracts. This will result in a program change increase of 7,056,713 hours.**
Change in Burden:	**+7,056,713 hours**
Statute Title and P.L.#	**The Jobs and Growth Tax Relief Reconciliation Act of 2003 P.L. 108-27**

Statutory Increases

OMB#:	**1545-0747**
Title:	**2003 Form 5498, IRA Contribution Information**
Purpose of the Collection:	**Trustees and issuers to report contributions to, and the fair market value of, an individual retirement arrangement use**

	Form 5498.
Why Increase Occurred:	Changes were made by adding a new checkbox (Box 11) to satisfy the reporting requirements established by Notice 2002-27. This will result in a program change increase of 812,082 hours.
Change in Burden:	+812,082 hours.
Statute Title and P.L.#:	Existing Code sections

Statutory Increases

OMB#:	1545-0956
Title:	2002 Form 5500-EZ, Annual Return of One-Participant (Owners and Their Spouses) Retirement Plan
Purpose of the Collection:	Form 5500-EZ is an annual return filed by a one-participant or one-participant and spouse pension plan. The IRS uses this data to determine if the plan appears to be operating properly as required under the law or whether the plan should be audited.
Why Increase Occurred:	We revised parts of the instructions to make them more clearly or as a necessary yearly update by reviewing the ok-to-print package. Six Code references were added. This will result in a program change increase of 305,000 hours.
Change in Burden:	+305,000 hours.
Statute Tile and P.L.#:	Existing Code sections

Statutory Increases

OMB#:	1545-1008
Title:	2002 Form 8582, Passive Activity Loss Limitations
Purpose of the Collection:	Form 8582 is used by noncorporate taxpayers to figure the amount of any passive activity loss (PAL) for the current tax year and the total losses allowed from passive activities.
Why Increase Occurred:	Changes were made to Form 8582 due to the Community

	Renewal Tax Relief Act of 2000. Ten lines, 1 Code reference, 1 legal record, and 3 general records were added to the burden computation. This resulted in a program change increase of 2,100,924 hours.
Change in Burden:	**+2,100,924 hours.**
Statute Title and P.L.#:	**Community Renewal Tax Relief Act of 2000 P.L. 106-554 Job Creation and Worker Assistance Act of 2002 P.L. 107-147**

Other Increases

OMB#:	**1545-1502**
Title:	**Form 5304-SIMPLE, Savings Incentive Match Plan for Employees of Small Employers (SIMPLE)—Not for Use With a Designated Financial Institution; Form 5305-SIMPLE, Savings Incentive Match Plan for Employees of Small Employers (SIMPLE)—for Use With a Designated Financial Institution; and Notice 98-4, Simple IRA Plan Guidance**
Purpose of the Collection:	**Forms 5304-SIMPLE and 5035-SIMPLE are used by an employer to permit employees to make salary reduction contributions to a savings incentive match plan (SIMPLE IRA) described in Code section 408(p). These forms are not to be filed with IRS, but to be retained in the employers' records as proof of establishing such a plan, thereby justifying a deduction for contributions made to the SIMPLE IRA. The data is used to verify the deduction. Notice 98-4 provides guidance for employers and trustees regarding how they can comply with the requirements of Code section 408(p) in establishing and maintaining a SIMPLE Plan, including information regarding the notification and reporting requirements under Code section 408.**
Why Increase Occurred:	**OMB showed a 2,127,000 hours program change increase, but this was the burden hours. OMB corrected this error with a program change decrease of 2,127,000 hours.**
Change in Burden:	**+2,127,000 hours.**

Other Reductions

OMB#:	**1545-1522**
Title:	**Revenue Procedure 2004-1 and Revenue Procedure 2004-3, 26 CFR 601.201-Rulings and Determination Letters**
Purpose of the Collection:	**The information requested in Revenue Procedure 2004-1 under sections 5.05, 6.07, 8.01, 8.02, 8.03, 8.04, 8.05, 8.07, 9.01, 10.06, 10.07, 10.09, 11.01, 11.06, 11.07 12.12, 13.02, 15.02, 15.03, 15.07, 15.08, 15.09, and 15.11, paragraph (B)(1) of Appendix A, and Appendix C, and question 35 of Appendix C, and in Revenue Procedure 2004-3 under sections 3.01(29), 3.02(1) and (3), 4.01(26), and 4.02(1) and (7) (b) is required to enable the Internal Revenue Service to give advice on filing letter ruling and determination letter requests and to process such requests.**
Why Increase Occurred:	**OMB showed a 305,230 hours program change increase, but this was the burden hours. OMB corrected this error with a program change decrease of 305,230.**
Change in Burden:	**+305,230 hours.**

Statutory Increases

OMB#:	**1545-1629**
Title:	**2002 Form 8867, Paid Preparer's Earned Income Credit Checklist**
Purpose of the Collection:	**Form 8867 helps preparers meet the due diligence requirements of Code section 6695(g), which was added by section 1085(a)(2) of the Taxpayer Relief Act of 1997. Paid preparers of Federal income tax returns or claims for refund involving the earned income credit (EIC) must meet the due diligence requirements in determining if the taxpayer is eligible for the EIC and the amount of the credit. Failure to do so could result in a $100 penalty for each failure. Completion of Form 8867 is one of the due diligence requirements.**
Why Increase Occurred:	**Statutory Increases Changes were made by section 303 of EGTRRA. Lines were added and deleted. This resulted a program change increase of 585,791 hours.**
Change in Burden:	**+585,791 hours.**

Statute Title and P.L.#:	**Economic Growth and Tax Relief Reconciliation Act 2001 P.L. 107-16**

Other Increases

OMB#:	**1545-1674**
Title:	**Revenue Procedure 2000-20 (Master and Prototype Plans)**
Purpose of the Collection:	**The master and prototype revenue procedure sets forth the procedures for sponsors of master and prototype pension, profit-sharing and annuity plans to request an opinion letter from the Internal Revenue Service that the form of a master or prototype plan meets the requirements of section 401(a) of the Internal Revenue Code. The information requested in sections 5.14, 9.11, 12.02, 12.03, 15.02, 17.02, 18.06, 19.02 and 19.09 of the master and prototype revenue procedure is in addition to the information required to be submitted with Forms 4461 (*Application for Approval of Master or Prototype Defined Contribution Plan*), 4461-A (*Application for Approval of Master or Prototype Defined Benefit Plan*) and 4461-B (*Application for Approval of Master or Prototype or Plan (Mass Submitter Adopting Sponsor)*). This information is needed in order to enable the Employee Plans function of the Service's Tax Exempt and Government Entities Division to issue an opinion letter.**
Why Increase Occurred:	**OMB showed a 408,563-hour program change increased, but this was the burden hours. OMB corrected this error with a program change decrease of 408,563 hours.**
Change in Burden:	**+408,563 hours.**

Statutory Increases

OMB#:	**1545-1805**
Title:	**2002 Form 8880, Credit for Qualified Retirement Savings Contributions**
Purpose of the Collection:	**Form 8880 is used to allow qualifying taxpayers to take a nonrefundable credit for contributions made to their qualified retirement accounts. These accounts can be IRA's, Roth IRA's,**

	or qualified employer sponsored retirement plans.
Why Increase Occurred:	**This is a new form.**
Change in Burden:	**+1,310,000 hours.**
Statute Title and P.L.#:	**New code section 25B.**

Statutory Increases

OMB#:	**1545-1807**
Title:	**2002 Form 8885, Health Coverage Tax Credit**
Purpose of the Collection:	**Form 8885 is used to allow a qualifying individual to take a credit for health insurance premium paid either by them or their behalf on their tax return.**
Why Increase Occurred:	**This is a new form.**
Change in Burden:	**+294,000 hours.**
Statute Title and P.L.#:	**New code section 36.**

Statutory Increases

OMB#:	**1545-1809**
Title:	**2002 Form 8882, Credit for Employer-Provided Child Care Facilities and Services**
Purpose of the Collection:	**Qualified employers use Form 8882 to request a credit for employer-provided childcare facilities and services. Section 45F provides credit based on costs incurred by an employer in providing childcare facilities and resource and referral services. The credit is 25% of the qualified childcare expenditures plus 10% of the qualified childcare resource and referral expenditures for the tax year, up to a maximum credit of $150,000 per tax year.**
Why Increase Occurred:	**This is a new form.**
Change in Burden:	**+9,680,000 hours.**

Statute Title and P.L.#: New code section 45F.

Statutory Increases

OMB#: 1545-1810

Title: 2002 Form 8881, Credit for Small Employer Pension Plan Startup Costs

Purpose of the Collection: Qualified small employers use Form 8881 to request a credit for start up costs related to eligible retirement plans. Form 8881 implements section 45E, which provides a credit based on costs incurred by an employer in establishing or administering an eligible employer plan or for the retirement-related education of employees with respect to the plan. The credit is 50% of the qualified costs for the tax year, up to a maximum credit of $500 for the first tax year and each of the two subsequent tax years.

Why Increase Occurred: This is a new form.

Change in Burden: +960,000 hours

Statute Title and P.L.#: New code section 45E.

Statutory Increases

OMB#: 1545-1823

Title: 2003 e-Services Registration TIN Matching- Application and Screens for TIN Matching Interactive

Purpose of the Collection: E-services is a system which permits the Internal Revenue Service to electronically communicate with third party users to support electronic filing and resolve tax administration issues.

Why Increase Occurred: This is a new product.

Change in Burden: +3,590,000 hours.

Statute Title and P.L.#: Restructuring and Reform Act of 1998 P.L. 105-206.

Other Increases

OMB#:	**1545-1819**
Title:	**REG-116041-01, Information Reporting and Backup Withholding for Payment Card Transactions**
Purpose of the Collection:	**The regulations provide that backup withholding does not apply to payment card transactions if the reportable payments are made through a Qualified Payment Card Agent (QPCA) and the payee is a qualified payee. Under the regulations, a QPCA must notify a cardholder/payor of any merchant/payees that are not qualified payees (Regulatory Regulation).**
Why Increase Occurred:	**This is a new regulation.**
Change in Burden:	**+11,750,000 hours.**

Other Increases

OMB#:	**1545-1836**
Title:	**2003 Form 8734, Support Schedule for Advance Ruling Period**
Purpose of the Form:	**Form 8734 is used by charities to furnish financial information that Exempt Organization Determination of IRS can use to classify a charity as a public charity.**
Why Increase Occurred:	**This is a new form.**
Change in Burden:	**+639,360 hours.**

Appendix D
Examples of Significant Burden Changes
FY 2003

Reductions

Cutting Redundancy

OMB#:	1545-0074
Title:	2002 Form 1040, U.S. Individual Income Tax Return
Purpose of the Collection:	Individual taxpayers to report their taxable income and calculate their correct tax liability use this form.
How Reduction Achieved:	As part of the Burden Reduction Initiative, Treasury decided to increase the threshold for filing Schedule B (Form 1040) to $1,500. As a result of this change the number of people filing Schedule B was reduced from 33,861,904 to 23,092,147. This will result in a program change decrease of 15,616,147. Other Increases Also, additional text was added to the instructions for "Rollover of Gain From Empowerment Zone Assets" adding 1 "write-in" and 1 Code reference. This will result in a program change increase of 2,840,101 hours. The net program change decrease is 12,776,046 hours.
Change in Burden:	-12,776,046 hours.

Statutory Reductions

OMB#:	1545-0085
Title:	2002 Form 1040A and Schedules, U.S. Individual Income Return
Purpose of the Collection:	Individual taxpayers to report their taxable income and calculate their correct liability use this form.
How Reduction Achieved:	Two worksheets were deleted, Line 26, "Tax Computation Worksheet". Changes of increases and decreases of lines, Code references, and the size of worksheets were made throughout Form 1040A, instructions, and schedules. The above changes will result in a program change increase of 3,683,969 hours, and a program change decrease of 8,871,556. Other

	Reductions Also, program change due to IRS resulted in a program change decrease of 2,015 hours. All of the above changes will result in a net program change decrease of 5,189,602 hours.
Change in Burden:	-5,189,602 hours.

Cutting Redundancy

OMB#:	1545-0085
Title:	2002 Form 1040A and Schedules, U.S. Individual Income Return
Purpose of the Collection:	Individual taxpayers to report their taxable income and calculate their correct liability use this form.
How Reduction Achieved:	As part of the Burden Initiative, Treasury has decided to increase the threshold for filing Schedule 1 (Form 1040A) from $400 to $1,500. As a result of this change the number of people filing Schedule 1 will be reduced from 3,391,161 respondents to 1,728,736 respondents. This change will result in a program change decrease of 1,612,553 hours due to decrease of 1,662,452 respondents.
Change in Burden:	-1,612,553 hours.

Cutting Redundancy

OMB#:	1545-0123
Title:	2002 Form 1120 and Schedules, U. S. Corporation Income Tax Return
Purpose of the Collection:	Corporations to compute their taxable income and tax liability use Form 1120.
How Reduction Achieved:	Cutting Redundancy Due to the Commissioner's Burden Reduction Initiative, corporations with total receipts and assets of less than $250,000 are not required to complete Schedules L, M-1 and M-2. This will result a net program change decrease of 26,211,719 hours. Statutory Reductions Code references were deleted and added throughout the form and instructions. This will result in a program change decrease of 4,439,447

	hours. Other Deductions Changes were made throughout Form 1120, schedules, and instructions by adding lines, and adding 1 form attachment. These program changes are due to IRS. This will result in a program change decrease of 3,104,865 hours. All of these changes produced a program change decrease of 33,756,031 hours.
Change in Burden:	-33,756,031 hours.

Cutting Redundancy

OMB#:	1545-0130
Title:	2002 Form 1120S and Schedules, U.S. Income Tax Return for an S Corporation
Purpose of the Collection:	Form 1120S and its schedules are used by S corporations to figure their tax liability and report their income and other tax-related information. IRS uses the information to determine the correct tax for S corporations and their shareholders.
How Reduction Achieved:	Due to the Commissioner's Burden Reduction Initiative, corporations with total receipts and assets of less than $250,000 are not required to complete Schedules L and M-1. This will result in a program change decrease of 14,262,930 hours.
Change in Burden:	-14,262,930 hours.

Statutory Reductions

OMB#:	1545-0142
Title:	2002 Form 2220, Underpayment of Estimated Tax by Corporations
Purpose of the Collection:	Form 2220 is used by corporations to determine whether they are subject to the penalty for underpayment of estimated tax and, if so, the amount of the penalty. The IRS uses Form 2220 to determine if the penalty was correctly computed.
How Reduction Achieved:	The Victims of Terrorism Tax Relief Act made Changes. Three lines have been deleted due to the expiration of those provisions. The reason that the 2 other lines (lines 22 and 23) were deleted on the 2002 Form 2220 was that the 6% rate for interest on tax

	underpayments under IRC 662(a)(2) did not change from the 2nd through the 3rd and 4th quarters of 2002. These changes will result in a program change decrease of 856,440 hours.
Change in Burden:	-856,440 hours

Statutory Reductions

OMB#:	1545-0233
Title:	Form 7004, Application for Automatic Extension of Time To File Corporation Income Tax Return
Purpose of the Collection:	Corporations and certain nonprofit institutions to request an automatic 6-month extension of time to file their income tax returns use Form 7004. The information is needed by IRS to determine whether Form 7004 was timely filed so as not to impose a late filing penalty in error and also to insure that the proper amount of tax was computed and deposited.
How Reduction Achieved:	Editorial changes were made throughout the form and instructions. Five Code references were deleted. This will result in a program change decrease of 1,091,855 hours.
Change in Burden:	-1,091,855 hours.

Statutory Reductions

OMB#:	1545-0747
Title:	2003 Form 5498, IRA Contribution Information.
Purpose of the Collection:	Trustees and issuers to report contributions to, and the fair market value of, an individual retirement arrangement use Form 5498.
How Reduction Achieved:	Changes were made by deleting checkbox (Box 11) due to the creation of new Form 5498-ESA, Coverdell Contribution Information, which include information previously reported on Form 5498 in box 11. (P.L. 107-22, to rename the education individual retirement accounts as the Coverdell education savings account). This will result in a program change decrease of 812,082 hours.

Change in Burden:	-812,082 hours.

Cutting Redundancy

OMB#:	1545-0890
Title:	2002 Form 1120-A, U.S. Corporation Short-Form Income Tax Return.
Purpose of the Collection:	Form 1120-A gives the IRS information necessary to determine whether the corporation has correctly computed its income tax liability.
How Reduction Achieved:	Cutting Redundancy Due to the Commissioner's Burden Reduction Initiative, corporations with total receipts and assets of less than $250,000 are not required to complete Parts III and IV. This will result in a net program change decrease of 2,576,794 hours. Statutory Reductions Code references were added and deleted throughout the form and instructions. This will result in a program change decrease of 427,645 hours. Other Reductions Changes were made due to IRS. Lines were deleted and added, and a form attachment deleted. This will result in a program change decrease of 373,949 hours. All of the above changes resulted in a program change decrease of 3,378,388 hours.
Change in Burden:	-3,378,388 hours.

Other Reductions

OMB#:	1545-0975
Title:	2003 Form 1120-W, Estimated Tax for Corporations
Purpose of the Collection:	Corporations use Form 1120-W to figure estimated tax liability and the amount of each installment payment. Form 1120-W is a worksheet only. It is not to be filed with the Internal Revenue Service.
How Reduction Achieved:	Changes were made to the form by deleting a line and 3 Code sections. Line 23a was revised based on an employee suggestion to alert taxpayers on how to complete lines 23a and 23b when the prior year was a short year or had no tax liability. This will result in a program change decrease of 549,735 hours.

Change in Burden:	-549,735 hours.

Changing Regulations:

OMB#:	1545-1466
Title:	2002 Third-Party Disclosure Requirements in IRS Regulations
Purposes of the Collection:	These existing regulations contain third-party disclosure requirements that are subject to the Paperwork Reduction Act of 1995.
How Reduction Achieved:	The regulation sections were discontinued because the regulation sections no longer exist or are reflected in the forms. The reduction of the number of hours will result in a program decrease of 1,041,645 hours.
Change in Burden:	-1,041,645 hours.

Other Reductions

OMB#:	1545-1467
Title:	Forms 9779, 9779(SP), 9783, 9783(SP), 9787, 9787(SP), 9789, 9789(SP) and 12252, Electronic Federal Tax Payment System (EFTPS)
Purpose of the Collection:	Enrollment is vital to the implementation of the Electronic Federal Tax Payment System (EFTPS). EFTPS is an electronic remittance processing system that the Service will use to accept electronically transmitted federal tax payments. This system is a necessary outgrowth of advanced information and communication technologies.
How Reduction Achieved:	Some of the historic (now obsolete) forms, in their infancy required an estimated time of 20 minutes (1995-1998) for completing the enrollment forms. All forms were revised (except for the Spanish forms). Beginning in 1999, after consolidating the separate instruction to the forms onto the enrollment form itself, the deletion and reconfiguring of taxpayer-required information, the completion time needed for a taxpayer to enroll using the paper document was reduced to 10 minutes. The above changes will result in a program change

decrease of 723,406 hours.

Change in Burden: -723,406 hours.

Other Reductions

OMB#: 1545-1502

Title: Form 5304-SIMPLE, Savings Incentive Match Plan for Employees of Small Employers (SIMPLE)—Not for Use With a Designated Financial Institution; Form 5305-SIMPLE, Savings Incentive Match Plan for Employees of Small Employers (SIMPLE)—for Use With a Designated Financial Institution; and Notice 98-4, Simple IRA Plan Guidance

Purpose of the Collection: Forms 5304-SIMPLE and 5035-SIMPLE are used by an employer to permit employees to make salary reduction contributions to a savings incentive match plan (SIMPLE IRA) described in Code section 408(p). These forms are not to be filed with IRS, but to be retained in the employers' records as proof of establishing such a plan, thereby justifying a deduction for contributions made to the SIMPLE IRA. The data is used to verify the deduction. Notice 98-4 provides guidance for employers and trustees regarding how they can comply with the requirements of Code section 408(p) in establishing and maintaining a SIMPLE Plan, including information regarding the notification and reporting requirements under Code section 408.

How Reduction Achieved: OMB showed a 2,127,000-hour program change increase, but this was the burden hours. OMB corrected this error with a program change decrease of 2,127,000 hours.

Change in Burden: -2,127,000 hours.

Other Reductions

OMB#: 1545-1522

Title: Revenue Procedure 2004-1 and Revenue Procedure 2004-3, 26 CFR 601.201-Rulings and Determination Letters

Purpose of the Collection: The information requested in Revenue Procedure 2004-1 under sections 5.05, 6.07, 8.01, 8.02, 8.03, 8.04, 8.05, 8.07, 9.01, 10.06, 10.07, 10.09, 11.01, 11.06, 11.07 12.12, 13.02, 15.02, 15.03, 15.07,

	15.08, 15.09, and 15.11, paragraph (B)(1) of Appendix A, and Appendix C, and question 35 of Appendix C, and in Revenue Procedure 2004-3 under sections 3.01(29), 3.02(1) and (3), 4.01(26), and 4.02(1) and (7) (b) is required to enable the Internal Revenue Service to give advice on filing letter ruling and determination letter requests and to process such requests.
How Reduction Achieved:	OMB showed a 305,230 hours program change increase, but this was the burden hours. OMB corrected this error with a program change decrease of 305,230.
Change in Burden:	-305,230 hours.

Statutory Reductions

OMB#:	1545-1619
Title:	2002 Form 8862, Information To Claim Earned Income Credit After Disallowance
Purpose of the Collection:	Section 32 of the Internal Revenue Code allows taxpayers an earned income credit (EIC) for each of their qualifying children. Section 32(k), as enacted by section 1085(a)(1) of PL 105-34, disallows the EIC for a statutory period if the taxpayer improperly claimed it in a prior year. Form 8862 helps taxpayers reestablish their eligibility to claim the EIC.
How Reduction Achieved:	Substantial legislative changes were made to IRC 32 altering the form from its prior revision. A foster child no longer has to live with the taxpayer for the entire year. A net of 11 lines and 1 record were deleted. This resulted in a program change decrease of 420,000 hours.
Change in Burden:	-420,000 hours.

Statutory Reductions

OMB#:	1545-1674
Title:	Revenue Procedure 2000-20 (Master and Prototype Plans)
Purpose of the Collection:	The master and prototype revenue procedure sets forth the procedures for sponsors of master and prototype pension, profit-sharing and annuity plans to request an opinion letter

from the Internal Revenue Service that the form of a master or prototype plan meets the requirements of section 401(a) of the Internal Revenue Code. The information requested in sections 5.14, 9.11, 12.02, 12.03, 15.02, 17.02, 18.06, 19.02 and 19.09 of the master and prototype revenue procedure is in addition to the information required to be submitted with Forms 4461 (*Application for Approval of Master or Prototype Defined Contribution Plan*), 4461-A (*Application for Approval of Master or Prototype Defined Benefit Plan*) and 4461-B (*Application for Approval of Master or Prototype or Plan (Mass Submitter Adopting Sponsor)*). This information is needed in order to enable the Employee Plans function of the Service's Tax Exempt and Government Entities Division to issue an opinion letter.

How Reduction Achieved: OMB showed a 408,563-hour program change increase, but this was the burden hours. OMB corrected this error with a program change decrease of 408,563 hours.

Change in Burden: -408,563 hours.

Other Reductions

OMB#: 1545-1696

Title: 2002 Form 8872, Political Organization Report of Contributions and Expenditures

Purpose of the Collection: Internal Revenue Code section 527(j), requires certain political organizations to report certain contributions received and expenditures made after July 1, 2000. Every section 527 political organization that accepts a contribution or makes an expenditure for an exempt function during the calendar year must file Form 8872, except for: A political organization that is not required to file Form 8871, or a state or local committee of a political party or political committee of a state or local candidate.

How Reduction Achieved: Statutory Changes P.L. 107-276 (the Act) was enacted on November 2, 2002. The changes that are were made to Form 8872, and its instructions were effective either retroactively to 2000, on the date of enactment, or 30 days after the date of the enactment. Three lines and 1 Code reference was added. This will result in a program change increase of 37,600 hours. Other

	Reductions In reviewing our previous computation, we found errors in the number of lines. This resulted in a program change decrease of 408,400 hours. All of these changes produced a program change decrease of 370,800 hours.
Change in Burden:	-370,800.

Other Reductions

OMB#:	1545-1722
Title:	2002 Form 8873, Extraterritorial Income Exclusion
Purpose of the Collection:	A taxpayer uses Form 8873 to claim the gross income exclusion provided for by section 114 of the Internal Revenue Code.
How Reduction Achieved:	Lines 52, 53, and 54 were removed because these lines caused the computation on the form to be inconsistent with the statute. Also, 1 Code reference was removed. This will result in a program change decrease of 520,00 hours.
Change in Burden:	-520,000 hours.

The Power Mobility Coalition

WORKING TOGETHER FOR FREEDOM AND INDEPENDENCE

June 30, 2004

The Honorable Doug Ose
Chairman, Subcommittee on Energy Policy,
Natural Resources and Regulatory Affairs
Committee on Government Reform
U.S. House of Representatives
B-377 Rayburn Building
Washington, D.C. 20515-6143

Dear Mr. Chairman:

On behalf of the Power Mobility Coalition (PMC), a nationwide coalition of large and small suppliers and manufacturers of motorized wheelchairs and scooters, we are writing to commend you for your hearing on April 20, 2004 entitled *What is the Bush Administration's Economic Growth Plan Component for Paperwork Reduction?* and for allowing follow-up questions to Dr. John Graham, Administrator of the Office of Information and Regulatory Affairs. As a result of your leadership on paperwork issues, suppliers and providers of health care services have a voice to help improve the Federal government's efficiency and enforce the provisions under the Paperwork Reduction Act (PRA). We submit these comments in response to the June 22, 2004 letter issued to you by Dr. Graham.

Mr. Chairman, we are concerned that the Centers for Medicare and Medicaid Services (CMS) and its contractors continue to devalue and ignore the Certificate of Medical Necessity (CMN), a document approved by the Office of Management and Budget (OMB) pursuant to the PRA.

The CMN is defined by Congress as a "form or other document containing information required by the carrier to be submitted to show that an item is reasonable and necessary for the diagnosis or treatment of illness or injury to improve the functioning of a malformed body member."[1] The CMN is the Medicare document of record requiring the treating physician to assess, among other things, whether the patient needs the equipment to move around in the residence, whether the patient has severe weakness of the upper extremities due to a neurologic, muscular, or cardiopulmonary disease/condition, and whether the patient is able to operate any type of manual wheelchair. As stated by Dr. Graham in his June 22, 2004 letter, the CMN is used by CMS "in order to obtain

[1] Section 1834(j)(2)(B) of the Social Security Act passed as part of the 1994 Social Security Act Amendments.

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documentation from physicians that certain pieces of medical equipment are medically necessary for Medicare beneficiaries."

We are pleased that OMB recognizes the "confusion in the supplier community as to the conditions under which additional documentation would be necessary." Toward this end, we appreciate that the OMB has "again engaged the agency [CMS] in discussions about the CMN form and the documentation necessary to support it." However, we are gravely concerned that Medicare participants are being unfairly penalized based on an arbitrary and ill defined system that places enormous paperwork burdens on physicians, suppliers and beneficiaries, while devaluing the well defined paperwork system approved by the OMB.

General Investigations of Industry

Dr. Graham references in his letter an OMB approved collection of information that CMS issued on June 6, 2003 for a period of 18 months. The June 6, 2003 collection of information once again affirmed the CMN as the medical document of record. CMS and OMB further agreed that Medicare contractors plan to request additional documentation through complex medical review on only 1/2 to 1% of all claims.[2]

Contrary to the June 6, 2003 agreement, CMS and its contractors issued a December 2003 "Clarification" to the public announcing a new "aggressive medical review strategy" which would require Medicare participants to routinely collect a whole host of ill defined documentation when submitting a claim. The "Clarification" also devalued the CMN stating that the CMN has never provided all of the information required to document that the coverage criteria for power wheelchairs have been met. Rather, they [CMN] serve as medical review "screening tools." Although the "Clarification" was ultimately rescinded due to political pressure, the standards set forth in the "Clarification" are still being followed by the contractors in contravention of the OMB-CMS June 6, 2003 agreement.

CMS went one step further. The agency revised Chapter 3 of its Program Integrity Manual ("PIM"), effective April 2004, to allow for a "routine" request of additional documentation from Medicare participants. The power wheelchair benefit is not determined by diagnosis but rather based on the functional ability of the patient. However, CMS states in Chapter 3 of the PIM that "supporting documentation may be requested by CMS and its agents on a **routine** basis in instances where diagnoses on the claims or CMN do not clearly indicate medical necessity." CMS added that "it is more likely that documentation would be requested for patients whose diagnoses are limited to non-neurological

[2] Approval of this collection of information was never published.

conditions such as COPD, congestive heart failure, coronary artery disease, arthritis or obesity (not all inclusive)." CMS never received OMB approval prior to issuance of this revised PIM language.

The CMS revision to the PIM is inconsistent with the June 6, 2003 OMB-CMS agreement and inconsistent with CMS Administrator McClellan's March 8, 2004 statement to the Senate Finance Committee. In response to questions from Senate Finance Committee members, Dr. McClellan stated:

> The clinical criteria for deciding when a manual or power wheelchair is medically necessary and appropriate for a beneficiary has been and will continue to be a matter of clinical judgment by a physician. It's also my understanding that CMS does not want to list specific condition-based criteria since the decision to determine the appropriateness of providing a manual or power wheelchair is best left to the physician's judgment.
>
> However, this does not abdicate the responsibility to have appropriate documentation as to the medical necessity. As a condition of coverage, CMS does require that the beneficiary's need for a wheelchair or power wheelchair is supportable. In fact, all claims for power wheelchairs must include a Certificate of Medical Necessity (CMN) which "certifies the need for the device and that it is reasonable and necessary for the treatment of illness or injury or to improve the functioning of a malformed body part."

We respectfully request that CMS rescind the Chapter 3 PIM language referenced above and obtain approval from OMB prior to the issuance of any general investigation of this industry. The PRA requires that all "collections of information"[3] be approved by the Director of the OMB and undergo specific procedural requirements including a public notice and comment period in the Federal Register. The PRA "collection of information" requirement does apply "during the conduct of general investigations...undertaken with reference to a category of individuals or entities such as a class of licensees or an entire industry."[4]

CMS and Contractors Ignore CMN Standard

The CMNs were subject to a formal public notice and comment period, were approved by OMB in 1996, and have been subsequently reapproved.

[3] A "collection of information" is defined in the PRA 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 forma or format, calling for....answers to identical questions posed to, or identical reporting or recordkeeping requirements imposes on, 10 or more persons, other than agencies, instrumentalities, or employees of the United States." 44 U.S.C. § 3502(3).

[4] 44 U.S.C. § 3518(c)(2).

Throughout this formal process, CMS stated to the OMB and the public that the CMN provided a mechanism for Medicare suppliers to demonstrate that the medical equipment being provided meets the criteria for Medicare coverage. Dr. Graham outlined the reapproval process for the CMN and informed your subcommittee that "CMS uses the CMN in order to obtain documentation from physicians that certain pieces of medical equipment are medically necessary for Medicare beneficiaries."

When the power wheelchair CMN was developed, special consideration was given to the issue of functionality and how best to determine mobility needs based on ambulation. Question #1 on the CMN requires a treating physician to determine if the patient needs the power mobility equipment to move around in the residence. Question #1 has remained the same since 1996. Thus, the longstanding interpretation of Medicare coverage criteria, as set forth on the CMN, addresses whether the patient can complete his/her activities of daily living without the use of mobility equipment.

The OMB approved CMN provides clarity and definition to motorized wheelchair national coverage policy and has set the standard for prescribing and providing power wheelchairs to Medicare beneficiaries since its inception. Prior to the 1994 CMN legislation passed by Congress and prior to OMB approval process, Medicare participants were subject to an ill defined and overly restrictive 1985 national coverage standard as to whether a patient is "bed or chair confined." In fact, the 1993 version of the CMN, implemented prior to the passage of the 1994 CMN legislation and prior to OMB approval, did ask whether a patient was bed or chair confined. With the input of the medical community, CMS changed this question to "move around in the residence" and obtained OMB approval in 1996.

Despite the clear guidance established by CMS on the CMN, the contractors now disregard the CMN and have reverted back to an ill defined 1985 "bed or chair confined" standard during review. During a June 17, 2004 meeting, the Region B Medical Director, overseeing the Midwestern part of the country, stated that the "***CMN no longer provides information that is consistent with the bed or chair confined standard***" and that it would be "too difficult" to make changes on the CMN.[5] During the extensive approval and reapproval process set forth by Dr. Graham, there were no changes to the CMN document. As a result, the contractors have established a new standard, to the detriment of Medicare participants, without undergoing proper procedure.

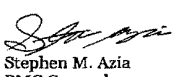
We respectfully request that CMS provide clear guidance to its contractors, and to the public, affirming that the medical necessity criteria via the questions

[5] The Region B Medical Director helped develop the CMN in the 1990's and thus helped develop the standard that is being disregarded today.

on the CMN are the standard by which contractors will review claims. Such a statement would be consistent with the intent of Congress and consistent with the OMB approval of this important document.

Thank you for the opportunity to comment on these important issues. We look forward to working with you and the Committee as we seek resolution for our industry and the patients we serve.

Sincerely,



Stephen M. Azia
PMC Counsel

Eric W. Sokol
PMC Director

cc: Dr. John Graham, OIRA