

RETROSPECTIVE REVIEW: HAVE EXISTING REGULATORY BURDENS ON SMALL BUSINESSES

HEARING BEFORE THE COMMITTEE ON SMALL BUSINESS UNITED STATES HOUSE OF REPRESENTATIVES ONE HUNDRED THIRTEENTH CONGRESS FIRST SESSION

HEARING HELD
MAY 8, 2013



Small Business Committee Document Number 113-015
Available via the GPO Website: www.fdsys.gov

U.S. GOVERNMENT PRINTING OFFICE

80-824

WASHINGTON : 2013

For sale by the Superintendent of Documents, U.S. Government Printing Office
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None.	
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None.	

RETROSPECTIVE REVIEW: HAVE EXISTING REGULATORY BURDENS ON SMALL BUSI- NESSES BEEN REDUCED?

WEDNESDAY, MAY 8, 2013

HOUSE OF REPRESENTATIVES,
COMMITTEE ON SMALL BUSINESS,
Washington, DC.

The Committee met, pursuant to call, at 1:00 p.m., in Room 2360, Rayburn House Office Building, Hon. Sam Graves [Chairman of the Committee] presiding.

Present: Representatives Graves, Chabot, Luetkemeyer, Mulvaney, Tipton, Huelskamp, Schweikert, Collins, Rice, Velázquez, Schrader, Clarke, and Chu.

Chairman GRAVES. Good afternoon, everyone. I will call this hearing to order. And I want to thank our witnesses for being here today and taking time out of your very busy schedules, and I look forward to your testimony.

We are here today to examine the results of a government-wide initiative to review existing red tape. Like an overgrown forest that needs to be thinned periodically, the regulatory system requires some regular pruning.

All Presidents since President Carter have directed Federal agencies to review regulations, and Congress has ordered agencies to periodically review regulations that have a significant impact on a substantial number of small businesses. However, agencies' past efforts to comply with these mandates have generally been inconsistent and quite ineffective.

In 2011, President Obama issued Executive Order 13,563 directing Federal agencies to create plans for reviewing their existing significant regulations. And in 2012 the President issued Order 13,610, which requires agencies to regularly report on the results of the retrospective review efforts. The President also instructed agencies to give special consideration to initiatives that would reduce regulatory burdens on small businesses. And with the government-wide regulatory review initiative well into its second year, this is an ideal time to examine the results that we have so far.

Only a limited number of actions have been finalized that provide quantified reductions in costs or paperwork burdens. Some actions will provide meaningful burden reductions for small businesses, but other actions are less significant or make questionable burden reduction estimates. However, the small number of burden-reducing actions pale in comparison to the fast growing thicket of

red tape, and a few recently released reports shine some new light on the regulatory burden.

According to the Office of Management and Budget, or OMB, in fiscal year 2012 there were 14 major rules alone that imposed an additional \$14.8 to \$19.5 billion in annual costs, which was the costliest year on record for federal regulation. As a point of comparison, there were six major rules in fiscal year 2003 that imposed only \$1.9 to \$2 billion in annual costs. A more comprehensive tally of 2012 agency regulatory cost estimates found that 539 final rules added about \$215 billion in new burdens.

Agencies have to do a better job to reduce overly burdensome and unnecessary red tape and paperwork to ensure that small businesses are able to survive and grow in a competitively global economy. And I look forward to hearing from all of our agencies today and our witnesses on what burdens they have seen or worked to reduce on small businesses as a result of their recent retrospective review efforts.

And with that, I turn to Ranking Member Velázquez for her opening statement.

Ms. VELÁZQUEZ. Thank you, Mr. Chairman. I want to take this opportunity to thank all the witnesses for being here today and the chairman for holding this important hearing.

Our government's regulatory structure profoundly influences the American economy. Certainly without many regulations, the public interest would be harmed. These rules make our water safe to drink, ensure our air is safe to breathe, protect workers from unnecessary risks, and protect consumers from unsafe products. Regulations also help our markets operate fairly. Without them, small businesses and entrepreneurs will often find their efforts to introduce new products and services stymied by large, entrenched companies who fear competition and seek to game the system.

While regulation has a role to play, the challenge is ensuring these rules remain relevant and are carefully targeted to avoid unintended consequences. In that regard, retrospective reviews are critically important in achieving that careful balance. This process helps those of us in Congress as well as the agencies develop smarter, more effective regulations and to modify or eliminate rules whose purposes have been outlived.

A number of mechanisms exist for evaluating these regulations. The Regulatory Flexibility Act requires an examination of all regulations that have a significant economic impact on small entities. Other agencies, like EPA, are required under the Clean Air and Water Acts to periodically review their own regulations. President Obama has reaffirmed these principles by issuing Executive Order 13563, which calls for a government-wide review of regulations. This undertaking has already yielded a number of new ideas, some of which I expect we will hear about today.

I know the Department of Agriculture is reducing information collection burdens on industry while also updating its lending processes. The Small Business Administration is also working to streamline its capital access application procedures. If done correctly, simplifying these rules will get more capital flowing to small firms at a time when our economy could use this boost. The Department of Transportation is working on 83 initiatives that will

save the department effort, taxpayers money and reduce inefficiencies for industry. I am pleased to see these agencies are taking the president's executive order seriously.

Part of this hearing's purpose will be to get a better grasp on how small firms might be affected by some of these challenges and what more can be done to further alleviate regulatory burden. Balancing regulatory costs against benefits is always a difficult challenge, but I am encouraged by initiatives we have seen thus far. These steps are a genuine effort to get it right, and I look forward to discussing what more can be done in that regard.

With that, I yield back, Mr. Chairman.

Chairman GRAVES. Thank you very much.

And our first witness is going to be Polly Trottenberg, who is the Under Secretary of Transportation for Policy at the Department of Transportation. Ms. Trottenberg was previously the Executive Director of Building America's Future, which is a non-profit organization that focuses on infrastructure investment. She also served in the United States Senate for 12 years, and most recently was Deputy Chief of Staff and Legislative Director for Senator Barbara Boxer.

Welcome. Thank you for coming in. I appreciate you taking the time.

STATEMENTS OF THE HON. POLLY TROTTEBERG, UNDER SECRETARY OF TRANSPORTATION FOR POLICY, UNITED STATES DEPARTMENT OF TRANSPORTATION; JEANNE A. HULIT, ASSOCIATE ADMINISTRATOR, OFFICE OF CAPITAL ACCESS, UNITED STATES SMALL BUSINESS ADMINISTRATION; AND CHERYL COOK, CHIEF INFORMATION OFFICER, UNITED STATES DEPARTMENT OF AGRICULTURE

STATEMENT OF THE HON. POLLY TROTTEBERG

Ms. TROTTEBERG. Thank you. Thank you, Chairman Graves and Ranking Member Velázquez and members of the Committee. I am pleased to be here today to testify on the Department of Transportation's implementation of President Obama's Executive orders which seek to reduce regulatory burdens.

Through our ongoing review and revision of DOT's rules and regulations under these two Executive orders, we have already saved U.S. businesses significant time and money over the last couple of years, and we hope to save them even more in the coming years. And we will do so while we continue our fundamental mission, saving lives and improving safety throughout our Nation's transportation system, reducing the environmental impacts of transportation, and providing strong consumer protections for the traveling public.

We know this Committee has a special charge to evaluate how our rules and regulations affect America's small businesses. At DOT, we too are continuously mindful of the regulatory burdens small businesses face, and we try our best to balance them with the very significant legal and statutory requirements.

DOT has one of the largest rulemaking responsibilities in the Federal Government. We are proud of our recent regulatory requirements, including CAFE standards, overhauling pilot rest re-

quirements, improving pipeline, auto, bus and truck safety enforcement, and strengthening aviation consumer protections. And we have done so with very robust public and private sector participation, the best science and economic modeling available, a commitment to trying to use plain, understandable English in our rulemaking, and seeking pragmatic, nonregulatory solutions where we can that will minimize burdens and costs for U.S. businesses.

But we know we can do better in the regulatory arena, and I am grateful that the Committee is showing interest. We do look forward to working with you more on this issue. And I also want to thank the Committee for noting in today's hearing memo that USDOT's January 2013 retrospective regulatory review report does detail a wide variety of actions we have taken over the last few years on 89 rulemakings across all parts of the Department. These actions are designed to update, streamline, clarify or remove obsolete regulations, consolidate duplicative requirements, and reduce the number of entities subject to our regulations.

The 64-page report details the extensive work that department experts have done, with the input of hundreds of stakeholders and members of the public, to improve the regulatory process and reduce red tape wherever we can. We are proud of the work contained in the report and I invite the Committee to review it on our website. The document is somewhat lengthy, because we are reporting on all the recommendations we have received from the public that we are addressing, and we welcome your input on how we might improve the format of the report.

And within the report, at least 20 of the rulemaking actions listed will have a particular benefit for small businesses. The most dramatic of these actions is a proposal that the Federal Motor Carriers Safety Administration, FMCSA, is currently developing with its stakeholders to rescind an outdated 1978 requirement that truck drivers submit and trucking companies retain very burdensome paper driver vehicle inspection reports even when there are no defects found in the vehicle. FMCSA estimates that rescinding this 35-year-old requirement would save the trucking industry \$1.5 billion a year without adversely affecting safety. We know that FMCSA's regulations can have a large impact on the trucking industry, particularly small and independent carriers, and this proposal could make a real dramatic difference for those small carriers.

Other proposals within our report call for moving to electronic filing signatures and recordkeeping in a number of our industries, and simplifying our certification and complaint procedures, which are often complex, duplicative and time-consuming. And those items may not sound that flashy, but in addition to FMCSA's \$1.5 billion proposal, these other proposed actions cumulatively could save small businesses, which include motor carriers, railroads, general aviation operators, additional tens of millions of dollars and countless hours of time and aggravation. They are really the quintessential definition of cutting red tape.

And we will continue our efforts to uncover and implement more such actions. In fact, the President's two recent Executive orders institutionalize many of the practices that the Department has long embraced under administrations from both parties, as the chair-

man mentioned. DOT has been regularly reviewing and revising its existing regulations for almost 35 years. And that said, we know we still have a lot more work to do. And that work also requires close collaboration with the NTSB, the GAO, our Inspector General and, of course, Congress, all of which play a very significant role in setting DOT's regulatory agenda.

In conclusion, let me once again thank the Committee for its interest in DOT's work. We share your desire to continuously improve the safety, environmental quality and consumer protection of our transportation system in a sensible, scientific and cost beneficial way, while ensuring that American businesses, large and small, are treated fairly so that they can grow and thrive.

Thank you, and I will be happy to take any questions.

Chairman GRAVES. Thank you very much.

Our next witness is Jeanne Hulit. Ms. Hulit is the Associate Administrator for the Office of Capital Access at the Small Business Administration. Prior to her federal government service, Ms. Hulit was the Senior Vice President for Commercial Lending at Citizens Bank and she also worked for Key Bank as a middle market lender.

Thank you very much, and I appreciate you being here.

STATEMENT OF JEANNE A. HULIT

Ms. HULIT. Thank you, Chairman Graves, Ranking Member Velázquez and members of the Committee. I am pleased to be testifying before you on the Small Business Administration's efforts to streamline its regulations.

In the Office of Capital Access, we have taken several steps to ease the regulatory burden on small business. We have a proposed rule to streamline both our 7(a) and 504 loan programs, which just closed for public comment. SBA's proposed rule will enable the 504 and 7(a) loan programs to better serve small businesses. In addition to reducing paperwork requirements and cost, the new rules will ease some barriers to program participation while reducing risks to the SBA and our CDC partners.

The two most significant changes are to the personal resources test and the affiliation requirement for both programs. Both of these proposed changes will increase eligibility for 7(a) and 504 loans, allowing more small businesses to access these critical financing tools.

By streamlining the documentation requirements for affiliated businesses, SBA will help applicants avoid submitting multiple and often duplicative tax returns and financial statements and significantly reduce paperwork requirements. Similarly, elimination of personal resources tests will streamline the application process, increase investment options for small business owners, and remove restrictions that could prevent the agency from approving projects with significant community benefit.

These changes are estimated to reduce 93,800 hours of process burden for participants in the 504 and 7(a) loan programs, which is a 10 percent reduction for borrowers and lenders and a 5 percent reduction for the agency.

In addition to regulatory reductions, the Office of Capital Access has implemented process improvements that have reduced the pa-

perwork burden to key 7(a) programs, resulting in significantly increased participation.

Changes in our Cap line program, providing revolving lines of credit, resulted in a 393 percent increase in loan volume in that program between 2011 and 2012. And year to date, the volume continues to double.

Our Small Loan Advantage product was streamlined this past June, which has resulted in a monthly volume of \$55 million versus \$5 million before the program changes, a tenfold increase.

Additionally, in August of 2012, the Office of Capital Access reduced the paperwork requirements for many participants in our surety bond program. The Quick Bond Guarantee Application, or Quick App, combines the contractor application and SBA surety agreement to one easy to use form. This reform significantly reduces paperwork and processing time for SBA-backed surety bonds on construction contracts of \$250,000 or less. As a result, year to date we have seen an increase of 49 percent in the number of bonds guaranteed over last year.

In addition to these capital access improvements, there have also been significant regulatory and paperwork reforms in other SBA programs. For example, our Office of Investment has streamlined the application process for SBIC licenses. Harry Haskins, our Deputy Associate Administrator for Investment, was announced yesterday as a finalist for the Samuel J. Heyman Service to America medal, a prestigious award dedicated to honoring America's civil servants. Harry and his team were recognized for the work they have done to streamline and turn around our SBIC program, which has had three consecutive record breaking years. Our SBIC team helped reduce the processing time for new SBIC funds to just 5.4 months, down from almost 15 months in 2009.

And for the thousands of small firms that do business with the Federal Government, we have helped reduce the time it takes to get paid. The President's Quick Pay Initiative cut in half, from 30 days to 15 days, the amount of time it takes for the Federal Government to pay small businesses. Getting paid sooner means that small businesses can get funds more quickly to reinvest in additional working capital, marketing their products and hiring new workers.

In addition to reviewing and revising its own regulations, the SBA has also engaged the small business community to find out how other Federal rules and regulations can be adapted to fit the changing needs of emerging entrepreneurs. In 2011, senior administration officials visited eight cities as part of the Startup America Initiative. At these roundtables, the SBA listened to small business owners, entrepreneurs and investors as they described improvements to processes and regulations that can help build a more supportive environment for entrepreneurship and innovation.

Those ideas were described in a report encompassing a broad array of policy ideas from student loans to intellectual property, and we have shared it with our Federal partners and the general public.

Finally, as a former regional administrator in New England, I can attest to the agency's efforts to coordinate with the Office of Advocacy to ensure that new regulations do not overly burden

small businesses. Our regional administrators conduct outreach efforts with regional advocates to respond to concerns voiced across the country.

I believe that the SBA has made significant progress in reducing the regulatory paperwork burdens on America's small business; however, work still remains, and we are committed to continuing these streamlining efforts.

I wish to thank you for inviting me to testify on this important topic today. I look forward to answering your questions.

Chairman GRAVES. Thank you very much.

Our final witness is Cheryl Cook, who is the Chief Information Officer for the Department of Agriculture. Prior to being named as the Chief Information Officer, Ms. Cook has served in a number of positions at the USDA. She also served as the Deputy Secretary for Marketing and Economic Development at the Pennsylvania Department of Agriculture and the Executive Director of Keystone Development Center, which was a nonprofit that helps new and emerging cooperatives.

So thank you very much for being here. I appreciate it.

STATEMENT OF CHERYL COOK

Ms. COOK. Thank you, Mr. Chairman, Ranking Member Velázquez, members the Committee.

In the interests of getting right to the discussion, I would like to submit my full statement for the record and just summarize remarks about USDA's efforts to reduce regulatory burden on small businesses and facilitate new business development through an array of research, financial and technical assistance programs.

I have had the privilege of being the CIO for just over a year now. I was still in USDA Rural Development as Deputy Under Secretary when the Executive orders were issued, so I kind of bridge, you know, both of those roles, so I was pleased to have the opportunity to be the witness for USDA today, even though I am not necessarily an expert in some of things that your constituents might be raising with you.

Small businesses, including farms and ranches, create a foundation for prosperity across rural America, providing an abundant and affordable food supply, fiber supply, and increasingly our renewable energy supplies.

Under President Obama and Secretary Vilsack's leadership, small businesses have been a critical element of our strategy to improve economic opportunity for those living in rural communities. We recognize that farmers, ranchers and rural business owners devote long hours and hard work to their trade and acknowledge our responsibility to ensure that their efforts are not weighed down by unnecessary and burdensome paperwork.

Revising or repealing unnecessary, duplicative or overly burdensome regulations already was underway in USDA's internal processes when the Executive orders were issued. Deputy Secretary Merrigan responded to the new orders by providing a more formal framework comprised of teams from around mission areas and agency levels to more formally review our regulations.

We looked at several factors, most of them found in the Regulatory Flexibility Act, such as the continued need for the regula-

tion, the nature of comments we have been receiving from the public, the complexity of the regulation, the length of time since the regulation had been evaluated, and the degree to which technology, economic conditions or other factors might have changed in the areas affected by the regulation. USDA also considered comments from stakeholders, internal resource capacity, and the potential need for statutory change to enable regulatory change.

USDA invited the public to participate in this review through the publication of a request for information in April of 2011, along with an invitation to visit our open government website and provide comments directly there, an opportunity that still exists today.

In addition, the Department's largest regulatory and service delivery component agencies conducted independent public outreach activities, employing a variety of mechanisms, from social media to more traditional requests for information and customer focus groups.

Through this effort over 2,100 public comments were received from a broad range of stakeholders, including individuals, regulated entities, trade groups, other governmental entities, including tribal governments, and USDA employees.

USDA released its final plan for retrospective analysis in August 2011, and in the subsequent months targeted eight areas for significant reduction on small business burden.

Since then, we have made progress in many of those areas. For example, in January of 2012, the Food Safety Inspection Service published a proposed rule for electronic export application and certification fees to make the export component of the agency's public health information system available as a much simpler and cheaper electronic alternative to the paper-based application and certification process that had existed before. Last November, a similar rule from FSIS for electronic imports inspection and certification was issued, and will save thousands of hours in finding and completing the necessary paper forms.

Last month Rural Development's Rural Business Cooperative Service published a proposed rule to streamline grant applications and reporting requirements. Personally I found this one very satisfying. We are finally moving past the accusation that you had to either be a professional grant writer or have enough money in your pocket already to hire a professional grant writer in order to access these assistance programs. We are now streamlining that process.

USDA also has made significant investments in information technology to reduce red tape and make it easier to access our financial and technical assistance programs. While many of USDA's 19 agencies have IT modernization efforts underway to push their programs to the Web, most notable is the Farm Service Agency's MIDAS Initiative, which finally rolled out nationwide earlier this month. Through MIDAS, FSA employees finally have modern tools to provide better service to farmers and ranchers, logging into a single system rather than having to toggle back and forth among several systems, being able to incorporate GIS technology into their work finally electronically for the first time instead of having to print a paper map and then draw on it with a pen to outline which fields are going to be planted to what crops this year.

USDA continues to accept comments from the public on any of its regulations and continues to look for ways to advance the mission of our Department consistent with the Executive orders. Agencies continue to engage with stakeholders and provide ever more information online in formats that make doing business with USDA easier no matter what kind of device you might be using.

USDA's open government website still gives the public a format to provide input, and we welcome any suggestions on our services from the people who use them.

Mr. Chairman, thank you again for the opportunity to appear today. I would be happy to address any questions you have at this point.

Chairman GRAVES. Thank you all very much. Again, I know you are all busy, and I appreciate you coming in.

I have two questions actually for Ms. Trottenberg, and they are specific to aviation, but my first question is about there is a program out there called the Living History Flight Experience Program, and what that did was allow owners and operators of very historically significant aircraft, which can be very expensive to maintain and run—they used to be able to apply for an exemption to have some limited passenger carrying capability to be able to, you know, again, help pay for those aircraft. Two years ago the FAA eliminated that exemption and said they would come out with a rule in October of 2012, which was last October, and they have still yet to provide a rule. And I know a lot of these folks are just hanging out there waiting for an opportunity.

But my first question is, why is it that you all closed the rule, or the exemption at least on that when—you know, just to be able to get the experience, I guess, of flying in one of these historic aircraft, but yet right now you can buy a ride on Spaceship 2 to experience space, as a commercial effort. It is okay to go into space and take a ride there, but it is not okay to take a ride on one of these airplanes, or at least allow these 501(c)(3)s to apply for an exemption to be able to give that.

Ms. TROTTEMBERG. Yeah. And I apologize, Mr. Chairman. I actually am not familiar with the Living History rule, so I don't know what FAA's reasoning was. I hear your concern, though, that it has taken a long time, and I certainly would like to get back to your staff on sort of what the status of it is.

You know, in general, I know from the FAA's point of view, you know, they do sort of a constant upgrade on their rules and regulations looking at safety issues, and, you know, I am not sure here. I would presume that might have been the reasoning behind it, but again, I would like to check and get back to on that.

Chairman GRAVES. Well, then have your staff or yourself write down. There is three things that I want to know. You know, one, I want to know what the, you know, purpose behind this was, which is a very general question. The second thing is I want to know when the rule, the new rule is going to come out, because you missed the deadline by a long ways, as matter of fact, and you have got a lot of people out there depending, so I want to know when. And I also want to know how much you are involving the industry out there to help write the new rules, to make sure that these opportunities are safe and that they can continue to offer—or be able

to apply for this exemption and offer these rides, you know, obviously with a waiver.

The next thing is, is when it comes to the FCC, I mean the Federal Communications Commission, which recently issued a rule on ELTs, those are emergency locator transmitters. They are in every single aircraft that is out there. They are required to be in every single aircraft that is out there. They right now operate on 121.5 megahertz. And basically you have airplanes and airlines that monitor that frequency all the time in case something goes down and so they can find that aircraft.

Well, the FCC came out with a rule that said that they can no longer be manufactured, they cannot be imported, they cannot be certified, they cannot be used and they cannot be sold, which means you have hundreds of thousands of aircraft out there with this equipment in there and now being required to buy new equipment, which is going to cost, you know, millions and millions of dollars to the industry and to a lot of small businesses out there.

And my question is, and you may not be able to answer this either, but I do want an answer from you, I want to know if the FAA, Department of Transportation is going to oppose that FCC's rule, because it is going to be extraordinarily burdensome. And these are small businesses and this equipment is very expensive. These are small businesses that are trying to operate. And, again, it comes right underneath what we are talking about and some of the things that are coming out, involving the industry out there, which it is not being involved, it is not being asked to take part in this process. And you probably aren't familiar with that rule either. I will let you go ahead and comment.

Ms. TROTTERBERG. Well, I know, Mr. Chairman, we have obviously a new chairman coming into the FCC, and actually the DOT. We have a lot of issues that we are setting up an agenda to speak to them about, so let me make sure this is on the list and get with FAA and get back to you with some answers on it.

You know, there is a whole range in the transportation field, as you know, of spectrum and communication issues that, you know, involve our two agencies.

Chairman GRAVES. Well, how soon can I expect an answer? Can I expect it in 2 weeks?

Ms. TROTTERBERG. Let us try and get you something by the end of this week. How about that?

Chairman GRAVES. Okay. By the end of this week. That is perfect.

Ms. Velázquez.

Ms. VELÁZQUEZ. Thank you, Mr. Chairman.

Every time we do hearings in this committee as well as other committees, but particularly this one, time and time again we hear stories on regulations from small businesses, the burden of those regulations, they don't have the amount of money that would allow for them to hire the lawyers and accountants and so on.

So the president offered a great opportunity for the federal agencies to review existing regulations based on his Executive Order 13563, and that executive order provides specific instructions to the federal agencies as far as reviewing existing significant regulations. So I take issue with agencies that go beyond the scope of the execu-

tive order and review rules that are proposed rules, not focusing on the existing regulations.

So my question is, why are agencies doing that? For example, Ms. Hulit, I would like to hear what the rationale is for SBA to include so many rulemakings in its report and not many existing regulations other than size standards, which we know SBA is already statutorily required to update?

Ms. HULIT. Thank you, Congressman Velázquez. The agency is in a constant dialogue with our lending community and our small business borrowers on how our programs are affecting them, whether they are useful, whether there are barriers to accessing the program. So in addition to the size standard issue that is required under the Executive order and reviewing our existing regulations, we have gone through a comprehensive process with our borrowers and with our lenders to get feedback on our loan programs. Some of that feedback has been existing regulatory issues that are problematic that they would like to see us change. And so we have to work comprehensively just not only on the Executive order, but on other issues that we hear from our client base, the borrowers and the lenders, on what we—

Ms. VELÁZQUEZ. Of all the completed actions that you have taken, can you name at least three regulations, that are existing regulations, that have been included in the report?

Ms. HULIT. I know that there are several size standards that have been submitted to OMB.

Ms. VELÁZQUEZ. Size standards, statutorily SBA has to update—

Ms. HULIT. Right. I understand that. And we—

Ms. VELÁZQUEZ. So that is beyond the scope of the executive order by the president, which specifically asks to review existing regulations. Look, you have in your books regulations that are dated 10, 15 years that do not make sense in today's economic reality. If we are seriously committed to take this opportunity to review those existing regulations and decide through economic impact analysis and everything that you have to do whether they make sense or not, then that is what the president wants and that is what we expect.

I would like to ask Transportation, each of the agencies here today have been reporting for over a year now on retrospective reviews, and so I just would like to ask you, will the sequester hurt DOT's ability to carry out those initiatives?

Ms. TROTTERBERG. Yes. Thanks for the question. And I think you have heard our Secretary, Ray LaHood, and a number of our modal administrators, including FAA Administrator Michael Huerta, have pretty much talked at great length about a lot of the impacts of sequester. Now, obviously we are grateful that Congress recently passed legislation that will enable us to mitigate some of the effects within the FAA, but clearly we have at DOT been planning for the sequester essentially for a year, and a lot of parts of the Department, we have engaged in a hiring freeze, and now luckily furloughs will be minimized, but the agency has had to cut expenses in a lot of ways. Clearly it has an effect on our operations.

Ms. VELÁZQUEZ. And SBA and then USDA, the same question on the sequester.

Ms. HULIT. Under the sequester, we have six accounts that had to be reduced under the sequester, and we have been executing those cuts accordingly. Fortunately at this point we don't have to have furloughs, but we have had to reduce our program authority as well as some of our grant support.

Ms. VELÁZQUEZ. Ms. Cook.

Ms. COOK. Largely the same answer. Our Food Safety Inspection Service was facing fairly significant furloughs that would have had an immediate impact on—

Ms. VELÁZQUEZ. But—

Ms. COOK.—meat packers, but we have managed to avoid that.

Ms. VELÁZQUEZ. My question is will the sequester impact the review of existing regulations?

Ms. COOK. It doesn't impact the review. To the extent that the review concluded that we might need a new IT system, for example, our ability to contract out is diminished by the resources that have been sequestered, of course, but it doesn't stop us from moving forward with the review.

Ms. VELÁZQUEZ. One area where the success of this executive order will be defined is whether or not there is coordination among agencies. And I know that historically this has been a problem and very difficult to accomplish. Such interagency consultation is absolutely critical to reduce regulatory burden. For instance, the EPA and DOT were able to do so regarding fuel economy standards. Has the USDA taken similar steps where appropriate to coordinate with other agencies?

Ms. COOK. USDA has coordinated with other agencies. For example, last year we put out a joint notice of funds availability with the Economic Development Administration, leveraging our resources with theirs so that, again, people who might not be a professional grant writer can get to one system and reach both agencies' financial assistance programs.

Within USDA coordination can be a challenge. As you know, we are a department of 19 different agencies and 10 staff offices, and sometimes just keeping our own cats herded can be a challenge. Where this came up for us in last year's review process really was in the area of tribal consultation. We are absolutely committed at USDA to consulting with tribal partners, but we were killing them, frankly, with the number of consultation opportunities we are offering across 19 agencies, and so our Secretary's Office of Tribal Relations stepped in to help us better coordinate that consultation activity and give them, I think, a more manageable bite at our regulatory agenda.

Ms. VELÁZQUEZ. Ms. Trottenberg, do you have any example where you have been coordinating with other agencies?

Ms. TROTTEBERG. Yeah. I mean, again, particularly speaking about aviation, one of the new provisions FAA will be implementing is creating an unmanned aerial craft program, a pilot program, and that is a program that clearly requires coordination across the Federal Government, with DOD and NASA and the FCC. And so, yes, we are going to make sure we talk to all the affected agencies and jurisdictions so that we don't later run into complexities and problems that would slow the program down.

Ms. VELÁZQUEZ. And Ms. Cook and Ms. Hulit, have you worked together in terms of the assisted loan programs?

Ms. COOK. Sure. USDA and the Small Business Administration actually has a memorandum of understanding committing ourselves to working together on our programs. In many cases one picks up where the other leaves off.

Chairman GRAVES. Quick follow up. When you mentioned working with agencies across the federal government, which is great, what about involving those businesses or those associations that are going to be affected by some of these rules? UAVs a perfect example.

Ms. TROTTEBERG. Yeah. I mean, there we are doing a lot of outreach with businesses and local communities. And I would say all of us that travel around the country, we are regularly meeting with communities that are interested in their business communities that want to put in applications and participate in the program. So we are getting a lot of terrific input. And, you know, there are a lot of challenging issues there, particularly privacy issues. As you know, now a lot of local communities are starting to pass ordinances saying they don't want to have those types of aircraft in their communities. So there are a lot of legal, privacy, technical and business issues to work through, but I think we are going to get a lot of great input and it is going to be a really terrific program.

Chairman GRAVES. Mr. Luetkemeyer.

Mr. LUETKEMEYER. Thank you, Mr. Chairman. And thank all the witnesses today for their agencies' efforts to try and streamline things and take the burden of regulation off our small businesses. They are our job creators, and when you hamper them, you hamper the ability of them to produce the jobs that are going to get us out of this mess.

Today I want to talk to Ms. Trottenberg. I have got a couple questions for you. And first I want to thank your agency for the help. I know Congressman Graves and I worked on the hours of service issue and, you know, we had a little problem with it and you were willing to sit down and your agency was willing to sit down and review the issue and review our concerns about it, and then we were able to get something done in a timely fashion. I hope that you would be willing to work on that issue with another issue I am not going to bring up here.

My staff should have briefed you or your staff with regards to my issue I am going to bring up today, which is the reinterpretation by your agency with regards to the FMCSA interpretation of the exemption of the rule of farmers transporting hazardous materials by requiring them to have a CDL along with alcohol and drug testing within a 150-mile radius. Originally the rule was 150 miles within the State, and the new language, according to the new statute, is 150 air miles regardless of boundary, whether it is a road, whether it is a political subdivision line, State line or it is a river, whatever, 150 air miles, and yet your agency made the statement that FMCSA treats as equivalent to the farm vehicle drivers, which is the previous definition, of operators of a farm vehicle.

So as a result, we have gone back to the old definition and sort of muddied the waters, and now we have farmers who are getting

ready to go in the field that are unable to transport their things without having to go through the process of getting a CDL license. And so I guess my comment to you is can we expect some help?

Ms. TROTTEMBERG. Absolutely. I think—and I am looking over here at the staff. I think the good news is we have been talking to your staff and the Farm Bureau, and I think we are going to have a good solution very shortly, and we can brief your staff on the details.

Mr. LUETKEMEYER. Okay. When is that “shortly”?

Ms. TROTTEMBERG. I think the “shortly” is end of May, early June, so within the next few weeks.

Mr. LUETKEMEYER. Okay. Ms. Cook, how important is this to get this done real quickly? You represent all the farmers.

Ms. COOK. Farming is a seasonal activity, to be sure.

Mr. LUETKEMEYER. And so what is happening right now?

Ms. COOK. Well, it depends on where you are in the country what is happening right now.

Mr. LUETKEMEYER. Well, I am in the Midwest. Most of this is going on in Missouri, where I am from. What is happening?

Ms. COOK. What is happening right now is the farmers are beginning to do their planting.

Mr. LUETKEMEYER. So how important is it to get this done ASAP?

Ms. COOK. It is important.

Mr. LUETKEMEYER. Would you make that into a request of Ms. Trottenberg to get that done?

Ms. COOK. I would be happy to work with Ms. Trottenberg and the DOT.

Mr. LUETKEMEYER. Okay.

Ms. TROTTEMBERG. Let us see what we can do to hurry it along. I take your point about the timing issues on—

Mr. LUETKEMEYER. It is very important. I know this is a problem we had with the hours of service issue. And, again, it was a situation where the farmers were in the fields right now. This has to be done immediately, otherwise you are going to lose a whole planting season and these folks are going to be in a situation that is going to be cross-wise with what they want to try and do here.

And remember, farming is a small business. These folks are business people who are trying to make a living and do the right thing as well.

And I am curious, whenever the rule was proposed, did you go back to the congressional statements that were made during the debate on this bill and use that as a guideline for the intent of what this rule was supposed to—whenever this was put into law? Did you go back and review that so that you understood the intent of how this was supposed to be handled?

Ms. TROTTEMBERG. Yeah. I mean, when we do rulemaking like this, we do go back and look at congressional intent. I think here clearly, you know, I think we would admit we didn’t get it right and, you know, we are trying to fix it as quickly as possible.

Mr. LUETKEMEYER. Okay. Well, that is kind of curious, because I know this is what Mr. Lankford of Oklahoma, and he was representing the Panhandle and using that as an example of the 150 air miles, because obviously looking at Oklahoma, it has got just,

you know, a sliver of land out there. So obviously the intent was to be able to go across State lines, so I have a hard time understanding how this could happen.

Did you contact the Farm Bureau at all with regards to making this rule before the rule was implemented?

Ms. TROTTERBERG. Yeah. I mean, I can check with—I believe we did contact the Farm Bureau. But, look, obviously, you know, I think we recognize here we made some mistakes, we need to fix them. And I take your point, we need to do it expeditiously.

Mr. LUETKEMEYER. Okay. I appreciate that. With that, again, I follow up on Chairman Graves's comment a minute ago, I am kind of curious as well, you know, we are talking about working across agencies here. Did you contact the Department of Agriculture and find out what kind of impact this is going to have whenever you put this rule out?

Ms. TROTTERBERG. I am looking over at the staff to see. I presume we did. I think we usually are pretty—

Mr. LUETKEMEYER. Ms. Cook, do you know?

Ms. COOK. No, sir. I would have no reason to know.

Ms. TROTTERBERG. I think on these types of rules, we are in pretty regular communication with USDA.

Mr. LUETKEMEYER. Hmm. And USDA didn't throw a fit over this one?

Ms. COOK. I didn't observe any fits being thrown.

Mr. LUETKEMEYER. Well, I hope you do next time.

Ms. COOK. Yes, sir.

Mr. LUETKEMEYER. Because I am going to throw one here if we don't get this changed, because this is a really big deal to lots and lots of farmers around the country. And as you well know now, Farm Bureaus are interested in this, all the ag groups are interested in this. This is a really, really big deal. So I appreciate your looking into it and we will look forward to working with your agency. Thank you very much for your time.

I yield back the balance of my time.

Chairman GRAVES. Ms. Chu.

Ms. CHU. Yes. Ms. Hult, I am interested in the access to capital for small businesses. And you stated that you were streamlining the paperwork burdens for the 504 and 7(a) loan programs. To what extent do you predict that these changes to the paperwork will reduce the regulatory burden hours for small business, and will there be an increase of lending to small businesses as a result of these changes?

Ms. HULT. Certainly. As I mentioned in my testimony, we do expect a significant decrease in the burden hours, but we do expect an increase in availability of capital and increase in our loans. We project about 47,000 loans over a 5-year period will occur as a result of these changes, resulting in about \$30 billion in additional financing, supporting about half a million jobs over the 5-year period.

Ms. CHU. And how have you reduced the regulatory burden for these small businesses?

Ms. HULT. Well, the two key areas are the personal resources task and the affiliation requirements, and those are significant paperwork burdens that are required to demonstrate a small business

is a small business. The affiliation rule, for example, is the same rule, the demonstration requirements for government contracting apply to the loan programs, which is a disincentive for making an application through our 504 loan program. We have seen a voluminous amount of tax returns and financial statements needed to demonstrate that they are not affiliated with a larger company, so we streamlined the affiliation rule to mirror what we did in the SBIC program.

Ms. CHU. And how did you happen to focus in on these? Did your agency work with lenders and small businesses in coming up with these new requirements?

Ms. HULIT. Thank you for asking. We have conducted extensive outreach. We conducted over 120 roundtables with small businesses across the country over a 1-year period to hear what were the most complicated factors about our loan programs and what they would like to see changed.

Additionally, we worked with NADCO, the trade association for the CDC community over a 6-month process. We called our Rein-vigoration Committee to get their priority list on what would be most impactful, both statutorily, regulatorially, as well as our SOP changes to make the program more user friendly. So we had a lot of outreach.

And these two changes, the personal resources test and the affiliation test, were the number one and number two priority changes that were identified.

Ms. CHU. Thank you.

Ms. HULIT. You are welcome.

Ms. CHU. Ms. Trottenberg, I wanted to commend the Department of Transportation for your efforts in implementing the President's Executive order. I have no doubt that the extensive regulatory review that your agency conducted was very time consuming and labor intensive. And like DOT, all agencies face a tradeoff in allocating their limited resources and conducting regulatory reviews as other mission critical activities.

From your experiences, what would you consider the most effective way to conduct regulatory reviews and ensure that the agency is getting the greatest net benefit from these reviews without utilizing resources that would be better used in other activities?

Ms. TROTTEMBERG. Yeah. Thank you, Congresswoman. And I think one of the things we are trying to do a better job of, and I hear some of the members on this Committee having concerns about it, finding new ways to do better outreach to the public, to small businesses, to all the interested stakeholders. And there are a lot of new technologies out there. Federal agencies are—I mean, there is a CIO here, but we are often a little lumbering when it comes to adopting the latest technologies and using social media, but in terms of our outreach now and the regulatory process and in all the other things we are doing, we are really trying to improve on that score. And I think you can reach a lot more people, we are trying to use a lot more online tools, dialogues, webinars, you name it, where we can get a lot more input and reach people and businesses all over the country, but, you know, potentially reduce costs by not having to fly us or fly them all over the place.

So I think there is a lot we are trying to do there and I think it is really yielding some good results. When we put out things for discussion and comment, we can now get thousands of people engaging in live debates where they can go back and forth online, and it is producing some really great results.

Ms. CHU. And would anybody else on the panel want to respond?

Ms. HULIT. I would just like to say as well, in addition to the outreach that we have done across the country, not just on the capital access side, but our other departments in the agency, we have gotten a lot of personal feedback, but our social media tools have been critical. We have a much more enhanced interactive ability to communicate with small business borrowers. We have the hits on our website are significant, as well as through, you know, Facebook, Twitter, et cetera, we get our message out.

Ms. COOK. USDA is blessed with a network of almost 3,000 local offices, and our employees are going to the grocery store, they are going to church, they are sitting at Little League games, the very people that they are working with, so we have had an excellent network for getting customer feedback for a long time.

In addition, though, the advent of social media has just really taken off for us in ways that, frankly, my office had not anticipated. Now in my current role, the thing that keeps me up most at night is the constant demand for more network bandwidth to accommodate social media. And, you know, I see no end to that. It is the thing that we are working on the most every single day in the CIO's office.

Ms. CHU. Thank you. I yield back.

Chairman GRAVES. Mr. Schweikert.

Mr. SCHWEIKERT. Thank you, Mr. Chairman.

You actually just said something that has completely changed my direction of the question. And forgive me if I mispronounce. Is it Hullett?

Ms. HULIT. Hulit.

Mr. SCHWEIKERT. Hulit. Okay. Sorry.

Ms. HULIT. Hulit.

Mr. SCHWEIKERT. It always helps if I actually put these on, because I can't actually read any of the name plates from here.

First of all, for SBA, standard operating procedure manual, how big is it?

Ms. HULIT. Hefty.

Mr. SCHWEIKERT. And mechanically when you have done sort of these reviews, sort of the mechanics and duplication and sort of the bureaucratic mechanics, is that one of the things you really spend time delving into, saying, this is our standard operating procedure?

Ms. HULIT. Yes. As a matter of fact, we are in the process of updating our 50.10.5 SOP, which is our loan origination SOP, our loan servicing origination and oversight. And what we are trying to do there is really simplify and streamline the SOP, make it much more user friendly. I can attest to the fact that, coming from a lending environment where our credit policy manuals are pretty hefty too, there is content that needs to be there, but it needs to be presented in a way that is user friendly, and we are working on that.

Mr. SCHWEIKERT. Well, if I remembered your resume, you had been a mid market lender at one point.

Ms. HULIT. Correct.

Mr. SCHWEIKERT. So you have had this sort of experience with here is our standard—or here is—actually, you refer to it, or your agency refers to it as standard operating procedure. I assume you also mean best practices, because as you know, sometimes best practices, saying we do it in this format, don't have to be nearly as specific, you know, in line-by-line detail.

Ms. HULIT. I guess I am not sure where you are going with that.

Mr. SCHWEIKERT. I am trying to understand, as you go back and are reviewing your standard operating procedures, does it really have to be, as you call it, hefty?

Ms. HULIT. I think it can be improved, as I said. And we are working on improving it and getting more clarity to our lending partners so they understand what the expectations are without having to go through volumes of paperwork.

Mr. SCHWEIKERT. And now to the point where your previous testimony sort of changed where I was going to go with this, are you using your social media platform to help you refine that and make it simpler and easier to understand?

Ms. HULIT. Our SOP is available through our sba.gov website and the lender portal that our lenders utilize for—

Mr. SCHWEIKERT. You have to have a really big bandwidth to be able to download it all.

Ms. HULIT. They don't need to download it all. They can go to sections that are pertinent to their activities.

We also obviously, we have about 90 percent of our loan applications are submitted electronically through our e-tran system. So we have several initiatives, not just what we are doing currently, for electronic application for our loans, but we have a process called SBA One, which is in the President's 2014 budget, which will streamline and make electronic the application process from the borrower's experience, the lender, the lender to the agency and for our oversight. So we have an initiative that is underway to use technology to make our SOP and our process a lot more streamlined.

But your concern about the depth of our SOP, yes, there is room to improve not only what we are trying to communicate in the SOP in terms of direction to our lending partners, but also how it is presented.

Mr. SCHWEIKERT. Okay. And that goal is simplification?

Ms. HULIT. Absolutely.

Mr. SCHWEIKERT. Because I have had the pleasure about a month or two ago sitting down with a number of my SBA lenders in Arizona, and they have had good relations with sort of the regional offices, but there is a sense of frustration that things change, and the notification process back to them, and often they are filling it out the way they know how, and then they get a rejection saying, oh, you missed something, we changed that a month ago.

Ms. HULIT. Uh-huh.

Mr. SCHWEIKERT. Fair criticism?

Ms. HULIT. Fair criticism. Our changes are published both electronically, they are available on our website, and our district offices

should be communicating that, and they are training with their lending partners as well, but there is always room for improved communications.

Mr. SCHWEIKERT. Well, Mr. Chairman, just sort of a final comment. The old saying, I believe it had something to do with there is two ways to keep people from knowing something: don't tell them, or tell them so much they are overwhelmed. And as you say, when something is hefty and certain changes happen into it, it is often going to slip through the cracks. So I hope that is—because that was the one real frustration I was getting from my lenders, is we need a simplified way to know we need to change how we put data on this line or the mechanics.

Ms. HULIT. I would like to say that exactly the feedback that you are talking about is precisely what we are incorporating into what we are trying to do in our next version of the SOP, which is to simplify our programs and simplify the SOP as well. So that feedback has been heard loud and clear in the agency. It is an ongoing process and we are working in that direction.

Mr. SCHWEIKERT. I appreciate it. And thank you, Mr. Chairman. Yield back.

Chairman GRAVES. Mr. Schrader.

Mr. SCHRADER. Thank you, Mr. Chairman.

Well, it all sounds very complicated to this little country horse veterinarian still, so I hope my other small business colleagues can find their way through the processes that you all have out there.

Very specifically, I guess, Ms. Cook, I also serve on the Ag Committee, and there has been a lot of discussion by the chairman and the ranking member both of the challenges USDA faces with technology. Indications were, at least a year or two ago, that we are still primarily a cobol-based system and cloud computing, and desktop technology was not really there yet in USDA. Is that still an accurate view of USDA?

Ms. COOK. Again, USDA is a collection of 19 different agencies and 10 staff offices, each of which get their own appropriations for things like IT, and we have haves and we have have nots.

I don't think I can overemphasize the significance of MIDAS coming out. That is 10 years in the making. Getting that—

Mr. SCHRADER. But the backbone of USDA is still cobol-based technology?

Ms. COOK. The agencies that I came from, the rural development agencies, many of our programs are still mainframe cobol-based.

Mr. SCHRADER. You have been hit by the sequester, like every other agency out there, some \$2 billion or whatever. Given the different opportunities you have had and some of the work like MIDAS, what role has technology played hopefully in helping you still deliver good service with these tough, tough reductions?

Ms. COOK. You know, technology has been the promise for a long time in USDA. We have seen the number of offices reduced, we have seen the number of staff reduced. We have brought technology to the extent funds allowed. We just last year completed the process of upgrading servers and routers in those local offices—

Mr. SCHRADER. Great.

Ms. COOK.—really for the first time since 2000, 2001.

Mr. SCHRADER. Do you have an ongoing account deferred maintenance, our how ever you want to term it account, to help upgrade over time?

Ms. COOK. We do for the field-based agencies, for the Farm Service agencies, Natural Resources, Conservation Service, and Rural Development.

Mr. SCHRADER. But not so much the rest, so—

Ms. COOK. Not so much the rest.

Mr. SCHRADER. Okay. New program, micro loan program. How is that working? It sounds like you are getting some real good applications.

Ms. COOK. Yeah. The Farm Service Agency has initiated a new micro lending program specifically to be more risk based in their lending, let them serve smaller producers for whom that \$15,000 or \$20,000 for even a used tractor or a piece of equipment makes all the difference in being able to stay in operation or not. It is going very well.

Mr. SCHRADER. Very good. Is there an increase in applications? It is a fairly new program.

Ms. COOK. It is a fairly new program, but the outreach has been good. FSA also enjoys a network of State and regional offices, local offices that have been providing outreach to producers.

Mr. SCHRADER. I appreciate that. There are a lot of small farmers. They are not all huge agribusinesses out there, and—

Ms. COOK. No, they are not. Most farmers actually have other sources of income in addition to their farm income. And, you know, keeping them on the land and in their community has been one of our objectives since the Lincoln administration.

Mr. SCHRADER. I guess the last question for me would be for all three of you. We have focused on rules and regulations that your agencies put out, and you are reviewing those and deciding which are perhaps appropriate in this environment and which are not.

How about looking at what we tell you to do, the statutory guidelines? And I know it is always tough to take on the egos here in Congress, but it would be perhaps easier to deal with the regulations if you are able to get rid of some of the laws that we pass, all in earnestness and maybe with good intent, maybe appropriate 20, 30, 40, 50, 100 years ago, but in today's transportation, small business and agricultural systems really don't apply.

Has there been any attempt as you have gone through the President's directive and your own internal workings to look at some of the laws and statutes that really perhaps take more time than they are actually worth, and maybe give this Committee and other Committees in Congress some guidance about, could you consider reviewing, however politically correct you want to be, consider reviewing some of these brilliant ideas you had to the past?

Let's start with you, Ms. Cook.

Ms. COOK. Okay. Well, as you know, USDA gets much of its statutory authority in 4 to 5-year increments through the periodic enactment of what is called a Farm Bill, generically. We are overdue—

Mr. SCHRADER. Yep.

Ms. COOK.—by a year, and so part of our regulatory review process—

Mr. SCHRADER. We will be fixing that in 2 weeks.

Ms. COOK. Cool.

Part of our regulatory review process was indeed looking at anticipated statutory changes in what would have been the 2012 Food, Farm and Jobs Bill—

Mr. SCHRADER. Okay.

Ms. COOK.—to see whether there might be areas to streamline regulations by first streamlining legislation. And to give you just one example out of Rural Development, because I lived it for 11 years in the field and here in D.C., we have currently 11 different statutory definitions of the term “eligible rural area,” and as you are trying to streamline your application processes and, you know, even be able to put up one map on the website that says this is rural, this isn’t, we can’t do that yet. And it confuses us, let alone the people that we serve sometimes trying to determine whether a particular project in a particular location is eligible for this program but not that program over there. And, you know, we can do better than we have been doing.

Mr. SCHRADER. Well, my time has expired. I don’t want to take a lot, but if you have other—if you could get those to my office, and Ms. Hulit and Ms. Trottenberg, get something like that to our office and maybe even the Committee as a whole, I would sure appreciate that, so we can, you know, do a real introspective review.

And I yield back. Thank you, Mr. Chair.

Chairman GRAVES. Mr. Collins.

Mr. COLLINS. Thank you, Mr. Chairman.

To start with, I will share my bias. I have spent 35 years as a small business owner. I think we have too many regulations. So that is a bias, so I will start with that.

I am just curious, you know, when you come to work and use the word “vision,” do you think we have just the right number of regulations, do you think we have too many regulations, or do you think we need more regulations, kind of as a start maybe for a little give and take here.

Ms. TROTTEBERG. I am happy to jump into that. And I think I will agree with you, we have too many, but I think I—I think it is worth—and actually it goes a bit to the previous gentleman’s question about why we sort of find ourselves where we are.

I think at DOT when we were preparing for this hearing, I asked, well, where do all our regulations comes from? The majority of them come from the authorizing committees of Congress. You know, I will give you a good example. MAP-21, we just had an authorization bill passed in transportation last year. It was a very popular bill, passed with bipartisan majorities in the House and Senate, President signed it. It has 100 new legislative mandates for DOT, which we estimate will incur 50 to 60 new rulemakings, half of which will be done by the Federal Motor Carrier Safety Administration.

Mr. COLLINS. Not to cut you off, but I am just curious. Ms. Hulit.

Ms. HULIT. I would agree. My—

Mr. COLLINS. Okay. I’m just trying to set the stage.

Ms. HULIT. Yes. Certainly.

Mr. COLLINS. Ms. Cook?

Ms. COOK. I would agree, although for us it is more qualitative than quantitative.

Mr. COLLINS. All right. So if we come to work, and we all know and small business knows we have too many, and I will be audacious enough to say 50 percent too many, 25 percent, a really big number. And if we agree there is too many, is there an attempt by any of the agencies to actually numerically reduce the number, like to come to work and say today we are going to delete 10, or this week we are going to delete 100 or this month 1,000, and do you track it? Do you know, for instance, over the last year, how many new regulations have gone in? I mean, that is a specific number. And how many, if any, you have deleted? So has the number gone up, down, or stayed the same? And if our goal is, and we all agree we have too many, I would like to think every month somebody should say, we just introduced 100 new regulations and we deleted 120, so net negative 20, we are getting where we need to go. Does that thought process even exist within your agency or does anyone track it or not?

Ms. TROTTERBERG. I mean, I think the thought process exists to see if there are ones that we can eliminate, but again, most of our regulations are statutory.

Mr. COLLINS. No. I hear that, but—

Ms. TROTTERBERG. They come from Congress or they come from—

Mr. COLLINS. No. I hear that.

Ms. TROTTERBERG.—the NTSB or GAO has made. So I—

Mr. COLLINS. In my world, that is defending the fact that they keep growing.

Ms. Hulit?

Ms. TROTTERBERG. It is not defending it, but it is just the agency can't unilaterally undo a congressional mandate.

Mr. COLLINS. Okay. I call it defense, but go ahead. Ms. Hulit.

Ms. HULIT. I would agree with Ms. Trottenberg. It sounds easier than it is. We are in the process of making some simple changes to our loan programs, it has taken us over a year. It is very challenging.

Mr. COLLINS. Ms. Cook?

Ms. COOK. I would look at the diversity of the communities that we serve. I don't know that a total number really gives you, again, a qualitative view at whether life is better or worse for a farm or ranch, compared to a meat packing plant, compared to an energy company, compared to a school providing school breakfast to know that you have made life better or worse.

Mr. COLLINS. Well, I guess what I will do—I kind of pretty much anticipated this. And I just would give you my observation. If we all agree, and we did, we have too many regulations, the way to have fewer is to measure where we are and to measure it quantitatively, daily, weekly, monthly, to have a report, but also to have a process that would say our goal here is to reduce it, and pick a number, you know, pick some audacious number, we want to cut 10 percent of our regulations. How many is that? Is it 1,000, is it 5,000? If you don't measure it, if you don't hold yourself accountable, but are defensive to say Congress in fact by passing laws is creating more and more regulations, we are never going to get

where we all started out agreeing. We have too many regulations. You have to measure it. You have to hold yourself accountable. And I would hope maybe you could take that back and at some point, if I said what is the data, did we go up, did we go down, did we stay the same, you could snap your fingers and that number would come out, because we are never going to get a reduction of regulations if that is not one of the reasons we come to work every day. Just don't know if you will agree or disagree. I got 20 seconds. Do agree or disagree that is reasonable?

Ms. TROTTERBERG. I mean, I understand your approach. Again, I feel like the challenge we face—I mean, I mentioned MAP-21.

Mr. COLLINS. So you disagree.

Ms. TROTTERBERG. You know, we didn't write them.

Mr. COLLINS. Ms. Hulit?

Ms. HULIT. I don't think I can answer that question as simply as it is stated.

Mr. COLLINS. Okay. It was kind of a yes-no, but go ahead, Ms. Cook.

Ms. COOK. Speaking from my own personal experience, when we tried this in the 1990s a lot of things moved out of regulation, where there was public comment and transparency, and into the very handbooks and other things we have been talking about that don't have opportunities for public comment and don't necessarily have transparency. So, again, I am not sure a total number of reduction actually gives you a better result at the end.

Mr. COLLINS. Well, I thank you all for your—I know my time is up, but I would say I think we need more of a focus on reducing regulations, and I am disappointed somewhat to hear that is clearly not likely to happen. Thank you.

Mr. Chairman.

Chairman GRAVES. Mr. Rice.

Mr. RICE. Thank you, sir.

I am real concerned about American competitiveness. And I have got some graphs and figures here that show that, you know, in fact regulations have just ballooned in the last 4 years, growing by, you know, 30, 40 percent. And I see reports here from CBO that the regulatory requirement complying with it costs small businesses over \$10,000 a year. And I have watched over decades, you know, we lose millions of American jobs every year. We blame people for outsourcing, but in fact—you know, and you say it is because of low wages, and I am sure some of that is true, but I also am convinced that the second highest reason is because of our regulatory framework. Complying with that is too expensive, too time-consuming and it forces businesses overseas. And I don't think we take seriously enough the threat that this regulatory framework is to our economy and, in fact, the very sovereignty of this country. You know, I serve on the T and I Committee, Transportation and Infrastructure, and the scariest thing I have heard since I have been in Congress is that the Port of Miami has been trying to get Federal approval to dredge their own port with their own money for 14 years. You know, that goes to the very competitiveness of our country, goes to the core of our national security. And if we don't take this seriously and do something about it, I don't see—you know, it is just going to get worse and worse and worse.

So my plea, my very strong and sincere request is that we take this extremely seriously and we hit the reset button. You know, I hear people—I am a CPA and a tax lawyer. I hear people talking all the time about zero-based budgeting, that we should start from zero every year. Actually, I am less concerned about that than I am about zero-based regulation. Maybe we should just throw this stuff out and start over again, because truly, if it takes 14 years to get that kind of approval—we are working on trying to get a permit for I-73 in South Carolina, we have been working for 6 years now, and the end is not in sight. You know, we have very limited dollars for infrastructure investment. It is so hard to find those dollars, yet we spend such a large percentage of those very limited dollars on complying with, you know, this enormous regulatory structure.

I know I am picking on you in transportation.

Ms. TROTTERBERG. And, Congressman, listen, I think we agree very much that the permitting process in transportation takes way too long. USDOT has been putting a lot of effort into that, as has the administration. Speaking of the question of agencies working together, we have a whole cross-agency effort to try and improve the permitting time. And we agree port dredging takes way, way too long. But, again, I guess I have to reiterate, if you wanted to start all over again, again, many—all of the regulatory framework is statutory. It does—I mean, not to say agencies don't have a role, but much of what we do is mandated by Congress, and so if we wanted to peel it away, we would need do that with you.

Mr. RICE. Well, here I come to Congress, I have been here for 4 months, I am a tax lawyer. What I need is your suggestions, because I want to know where we start in reducing this red tape and getting these approvals for the Port of Miami. You know, there is two ports on the East Coast that are going to be able to take these post-Panama ships. Two. If we started digging today——

Ms. TROTTERBERG. A lot more argue that they will.

Mr. RICE. If we started digging today, they wouldn't be ready. We have got Baltimore and we have got Norfolk. Florida wants one. What is it going to take to get the approval? You know, Charleston, Savannah. I mean, go down—this is at the very heart—this will absolutely destroy millions of American jobs.

We had the representative of Maersk Shipping Line, the largest shipper in the world, was in our subcommittee last week, or 2 weeks ago. He said they were building transfer stations in the Caribbean so they wouldn't have to deal with the United States Government. It wasn't that long ago people would come here because they wanted to deal with us versus other people. Now it is reversed.

We have to take the burden off. We have got to reduce this pile of regulation. We have got to get very serious about it. And it is not happening. I mean, despite your earnest effort, and I am sure they are earnest efforts, these reports that I have got here show in fact the regulatory burden is growing at an ever-increasing pace, faster than it ever has. So we have got to find a solution.

Thank you very much.

Chairman GRAVES. Ms. Clarke.

Ms. CLARKE. Thank you very much, Mr. Chairman. And I thank the ranking member in absentia. I understand she will be rejoining us shortly.

I would like to also thank our witnesses for their testimony today. And my question is for Ms. Trottenberg. Section 610 of the Regulatory Flexibility Act already requires agencies to review regulations within 10 years of their adoption for their impact on small businesses. Do you believe that Executive Order 13563 has basically made Section 610 reviews unnecessary?

Ms. TROTTEMBERG. No, I don't think they are unnecessary. And, again, at DOT, as I mentioned in my testimony, we have been doing a regular regulatory review for 35 years and we have that 10-year cycle, but obviously the President's Executive order, I will admit they put a new focus in our agency and brought together really dozens of experts throughout all our modal administrations to really take a fresh look and to again engage I think in a very robust process of public outreach, outreach to businesses, outreach to stakeholder groups. And we got—you know, again, we got dozens and dozens of creative ideas, and now we are tracking them on this report that we are putting out every year.

Ms. CLARKE. And would the other witnesses agree or do you have a different take on the comparative nature, assuming that some of it may be duplicative? What is your take on it? Ms. Cook, Ms. Hulit?

Ms. COOK. Section 610 of the Regulatory Review Act does provide the criteria that we used in responding to the Executive order, so one informed to the other rather than duplicated.

Ms. HULIT. I would agree. And as a small agency, we have constant contact with our client base and we are constantly looking at our regulations and seeing what we can do to be more streamlined.

Ms. CLARKE. Mr. Chairman, that is basically it for me. I yield back the balance of my time.

Chairman GRAVES. Thank you very much.

Mr. Huelskamp.

Mr. HUELSKAMP. Thank you, Mr. Chairman.

I regret I only have I guess 5 minutes for a pretty important topic. I sure wish someone was here from the EPA and/or the IRS. That would probably be number one and two for complaints, but the USDA is here, and I appreciate that. I want to note particular regulatory issues that I did bring up with the Secretary nearly 2 years ago. Under RUS apparently there is an effort underway to limit construction of a power plant in my district because USDA would like to have some major environmental reviews because they happened own other property on the site. Are you aware of this situation in western Kansas, and what has the Secretary done to allow this project to go forward and create hundreds and hundreds of new jobs?

Ms. COOK. Congressman, I am not aware of this particular issue, so let us back get back to you.

Mr. HUELSKAMP. Okay. I appreciate that. It would be related to the Sunflower power plant.

A second issue, which actually brings up the—has had the most constituent complaints over the last 2 years for my office, and that would be your proposed changes and mandates to the school lunch

program. And we are well aware that was coming, because the folks that run those programs said it is going to be a major disaster, and it has turned out to be the case. Plenty of evidence that good intentions don't always work, especially when you are trying to mandate from Washington what should happen in 100,000 school districts.

And I have looked at the legislation that did pass, and I don't believe it required restrictions, for example, on how much fruits and vegetables a school district could actually serve. Can you explain how the USDA reached a decision that they wanted to limit access to fruits and vegetables in the school lunch menu?

Ms. COOK. No. So let us get back to you on that as well. You know, I am familiar the Healthy Hunger-Free Kids Act, but I would be reluctant to try to answer that particular question.

Mr. HUELSKAMP. Okay. And a second one to follow up on that would be related. Can you explain why the USDA decided to limit access to meats and dairy in that same particular program? I presume you don't have an answer to that, but the third one and a follow-up would be, for many of my rural school districts, kindergartners and seniors in high school actually go through the same service line in these small districts. Under your regulations, the limits placed on the kindergartners as far as what they can be served in terms of calorie limits are the same ones placed on an 18-year-old. I would like a response from the USDA of exactly why that actually makes sense. And those are three of those areas.

An issue for DOT I would like to ask about that has been coming up particularly for those in the harvest business, I am a farmer myself, but the transportation of modern farm equipment that might exceed the normal lengths for moving equipment, moving across roads and—is there any update on what DOT is trying to do to make sure we meet the 21st century requirements in modern agriculture?

Ms. TROTTERBERG. Yeah. MAP-21, again, the transportation bill that Congress passed last year has actually tasked us with doing a very comprehensive new look at all the truck size and weight issues, and actually we have that process underway. We are going to be doing outreach and obviously reaching out to the agricultural community, the business community, truckers, you name it. So we are hoping, yes, to take a look at how we—you know, we have a patchwork system with different State regulations overlaid with Federal law, and we are going to try and look at, you know, what might be a 21st century solution to some of those questions.

Mr. HUELSKAMP. Do you think we are going to actually make progress on that? I wanted stronger language in there. I don't think Congress has been too specific on that, but curious to what you actually think will occur out of that.

Ms. TROTTERBERG. Well, I hate to prejudge it, because I have to say, you know, we have talked about some contentious issues today, and this one might be the most contentious that we face in transportation. As you are probably aware, there are strong feelings on all sides. And, again, I know there were a lot of folks in Congress who were hoping to get actual legislative language telling us what to do, and the best they could agree upon is to have us study it. You know, we are going to do a really thorough job. We

are well aware of the desire in the agricultural community and the business community to try and, you know, up truck size and weight in different places. We also have a very, very strong safety advocacy community, as you know, who feels very strongly that we shouldn't. And, you know, again, just as we try and do in our rule-making, I hope we are going to get good public input and use good science and good economics to try and come up with some good solutions.

Mr. HUELSKAMP. I look forward to that.

And lastly for the USDA, if we could have some comments on the proposed listing of the Lesser Prairie Chicken. Again, that is another agency. What is frustrating to me is, you know, my farmers and ranchers and oil and gas folks, they could care less which agency it is, all they know is it is coming from Washington and they recognize the listing of this Lesser Prairie Chicken will have a significant impact on the future of agriculture in western Kansas and five other States. And I haven't seen any comments from the USDA about this, because it is another agency. So I look forward to if the Secretary could step up and defend agriculture, as hopefully I believe I will expect him to do.

So I yield back, Mr. Chairman. Thank you.

Chairman GRAVES. Mr. Tipton.

Mr. TIPTON. Thank you, Mr. Chairman.

And I would like to echo my colleague's comments in regards to Greater Sage Grouse and the Prairie Chicken. We have got the overlapping regulatory issues that are certainly coming in, and we would like to hear that as well. It is of great concern.

I would like to thank our panelists for taking the time to be able to be here today. And all of your respective agencies did comply with the Regulatory Flexibility Act and consider the potential negative effects that new regulations have on businesses? We can just go down the line.

Ms. TROTTEMBERG. We certainly do. And we also try and consider very much the cumulative effect that potential rules and regulations have. It is a very big part of our review process, and we really do try and do the math on it and make sure that we are reducing the burdens as best we can.

Mr. TIPTON. Good. Ms. Hulit?

Ms. HULIT. I would say as well we take it very seriously. We have the Office of Advocacy within the SBA. We work very closely with the Office of Advocacy of what they are hearing and inform our decisions.

Mr. TIPTON. Ms. Cook?

Ms. COOK. Yeah. I would agree with that. We are looking on the regulatory side both at making it easier to find the rules and comply with the rules through electronic permitting and certification. We are also trying to reduce the paperwork burden for our financial and technical assistance programs as well.

Mr. TIPTON. Great. So we have unanimous agreement that, you know, we are striving to be able to reduce that.

And I would like to go back to some of the previous questions that have been asked. We have the evidence that it has come to this Committee that we are spending \$10,585 per employee for small businesses to be able to comply. I understand that we have

the 10-year review process, we have the Executive order from the President. And does this remind you a little bit of being on a treadmill? We run in place, we don't really reduce any regulations?

Can you point to me, going to the point of the hefty manuals as an example, and I am not trying to be mean spirited on that, because you have to try and comply, but how many rules, how many regulations over the last decade have we pulled back compared to how many we have added?

Ms. TROTTERBERG. Yeah. I admit, I think we have pulled back very few. And, again, as I was saying, you know, one of our agencies, I think one that gives this Committee some frustration, last year Congress has tasked them with another, I think it is about 30 new rulemakings. So even if we could pull a couple back, there is no question in terms of the net number, it is increasing. But, you know, I guess my plea would be, the agencies have their role to play, but Congress, the NTSB, there are a lot of different entities involved in sort of the rulemaking structure that we have in place. It is not just something agencies can unilaterally repair.

Mr. TIPTON. Let me ask just kind of a general question that many of us have discussed here. Would it be useful before your rules go final to bring them back to the authoritative committees for approval?

Ms. TROTTERBERG. Well, that is a good question.

Mr. TIPTON. Would you agree to that?

Ms. TROTTERBERG. It is probably not up to me to agree to it. I think that is something Congress could tell us to do any time they would like to.

Mr. TIPTON. Director Jackson of the EPA just told me no. She didn't want to be able to come back.

Ms. TROTTERBERG. Oh.

Mr. TIPTON. Don't you think, because you are doing interpretation effectively of legislative intent—

Ms. TROTTERBERG. Correct.

Mr. TIPTON.—which may lead the agencies to be making determinations which in fact may not comply with legislative intent, so wouldn't it be a good commonsense proposal to be able to bring those back to the Committees and say, we agree with you or we disagree with you in these areas, to be able to help you achieve the goal that you are aspiring to?

Ms. TROTTERBERG. Yeah. And I would have only two thoughts on that. I mean, one is as we do our rulemakings, we are involved in the Administrative Procedures Act, which, again, is a lot of congressionally-mandated steps, so in terms of when we can go back to Congress and what you can tell us to do, believe us or not, I would like to consult the legislative framework that we work under.

I would also say that we frequently in the agencies go back to Congress to try and get congressional intent. I would point out, let's look now that we have a divided Congress, sometimes congressional intent can be not as easy to divine as you might hope. And, you know, this Committee is charged with reducing—you know, one of the things you are looking at is reducing regulatory burdens on small businesses. Our authorizing committees, who are the ones who give us a lot of our regulations, they are meanwhile very much

urging us to hurry up and start doing these rulemakings. So sometimes Congressional intent can be complicated, even contradictory. But I understand the spirit of, you know, what you wish we could do, which is in the end produce a product that those in Congress who wanted us to produce it feel achieve their ends.

Mr. TIPTON. Well, one, we can give you a little bit of insight, or at least from my perspective. We had had the rules that were coming out of the Department of Transportation, out of the EPA in terms of light trucks, which is going to be another, what, \$8.8 billion in terms of costs that are going to be associated. This is harmful when we are struggling to be able to create jobs. And the goal, in my sense, right now when we have massive unemployment in rural America, we have a struggling economy with only pockets of prosperity in this Nation right now, it is not to add on more burden, more regulatory authority, but to be reducing this, to unleash American entrepreneurialism.

And my time has expired, Mr. Chairman. I yield back. Thank you, ladies.

Chairman GRAVES. Any other questions?

Seeing none, I want to thank all of our witnesses for being here today. And we will continue to monitor agency efforts to review existing regulations, and we would just ask that the agencies, all the agencies renew their efforts to identify regulations that affect small businesses and consider ways to reduce burdens.

And with that, I would ask unanimous consent that all members have 5 legislative days to submit statements, supporting materials for the record. Without objection, that is so ordered. And with that, the hearing is adjourned. Thank you.

[Whereupon, at 2:30 p.m., the committee was adjourned.]

A P P E N D I X

**STATEMENT OF
POLLY TROTTERBERG
UNDER SECRETARY FOR POLICY
U.S. DEPARTMENT OF TRANSPORTATION
BEFORE THE
COMMITTEE ON SMALL BUSINESS
U.S. HOUSE OF REPRESENTATIVES**

Agency Progress Implementing

Executive Order 13563, Improving Regulation and Regulatory Review and

Executive Order 13610, Identifying and Reducing Regulatory Burdens

MAY 8, 2013

Chairman Graves, Ranking Member Velázquez, and Members of the Committee, thank you for inviting me to testify today on the subject of agency progress implementing President Obama's Executive Order (EO) 13563, *Improving Regulation and Regulatory Review*, and EO 13610, *Identifying and Reducing Regulatory Burdens*.

I am grateful for the opportunity to present the work of the U.S. Department of Transportation (DOT), under the leadership of Secretary Ray LaHood, in the area of regulatory reform and what our Agency is doing to reduce the burdens and costs of compliance for small businesses.

Through our ongoing review and revision of DOT's rules and regulations under those two executive orders, we have been able to save American businesses significant time and money over the last two years, while continuing to improve safety throughout our Nation's transportation system, reduce the environmental impacts of transportation, and provide important consumer protections for the traveling public.

We are proud of the work we have done on behalf of the American people, and that the U.S. has one of the safest transportation systems in the world, but we know that we can always do better in the regulatory arena, and I thank the Committee for their interest. We hope to work with you to address the ongoing challenges we face.

DOT has, by some measures, one of the largest rulemaking responsibilities in the Federal Government. Some of its modes, like the Federal Aviation Administration (FAA), the Federal Railroad Administration (FRA), and the Federal Transit Administration (FTA) combine regulatory duties with other programs such as infrastructure development; others, like the National Highway Traffic Safety Administration (NHTSA), the Federal Motor Carrier Safety Administration (FMCSA), and the Pipeline and Hazardous Materials Safety Administration (PHMSA), focus primarily on safety regulations and enforcement.

The rulemaking and enforcement environment is extremely important—done right, it helps to prevent crashes and save lives, mitigate environmental damage, reduce carbon emissions, and provide consumer protection in a cost-beneficial way. The regulatory process has produced some of DOT's and the Obama Administration's most important accomplishments, including raising Corporate Average Fuel Economy (CAFE) standards, overhauling pilot rest requirements, improving pipeline, auto, bus and truck safety enforcement, and strengthening aviation consumer protections.

And we have done so with robust public and private sector participation, the best science and economic modeling available, a commitment to using plain, understandable English, and seeking non-regulatory and pragmatic solutions that minimize burdens and costs for American businesses wherever we can.

The regulatory process is incredibly detailed—building upon decades of legislative history—contentious, and often litigious, since it affects the operations and costs of the regulated industries, such as airlines and aircraft manufacturers, automobile manufacturers, commercial truck and bus operators, railroads, pipelines, and transit systems.

And we know this Committee has a special charge to evaluate how our rules and regulations affect America's small businesses. At DOT, we too are continuously mindful of the burdens small businesses we regulate can face. We constantly seek opportunities to reduce these burdens—as discussed later in my testimony—while advancing our statutory safety, environmental, and consumer protection missions.

Congress itself plays a very large role in the regulatory area. While all of DOT's regulatory agenda is authorized by statute, a large portion of it is not self-generated but is either specifically statutorily-mandated by Congress or in direct response to recommendations of the National Transportation Safety Board (NTSB), the Government Accountability Office (GAO) or the Inspector General (IG). The vast majority of statutorily mandated regulations originate from regular authorizing legislation for our operating administrations.

For example, last summer Congress reauthorized our Nation's highway and transit programs in the "Moving Ahead for Progress in the 21st Century Act" or MAP-21. The bill, which passed with strong bipartisan support, contained approximately 100 statutory mandates for DOT, which we estimate will result in 50–60 separate

rulemakings in a two-year period of which over half are assigned to FMCSA.

MAP-21's statutorily mandated rulemakings cover areas that all of us would likely agree are important priorities—new safety responsibilities, especially in transit, pipelines and motor carriers, environmental streamlining to save project sponsors time and money, and moving to a more performance-based transportation system. But some of these rulemakings will add further complexity to our existing regulatory scheme and possibly burdens to small entities, while some we believe will streamline it.

And we know that one of the most active areas of regulation has been under the Federal Motor Carrier Safety Administration, which does have a large impact on the bus and trucking industry, particularly small and independent carriers, which are essential partners with DOT in moving people and goods throughout the country.

To that end, we have been extremely proactive in our regulatory review efforts since the President's signing of EOs 13563 and 13610, with FMCSA leading the charge. One such effort is a proposal¹ under development to rescind the requirement that truck drivers submit, and trucking companies retain, burdensome paper driver-vehicle inspection reports when there are no actual vehicle defects found.

FMCSA estimates that rescinding this requirement will save the trucking industry about \$1.5 billion per year, without adversely affecting safety. The savings from each report is modest, but when you consider it provides almost daily savings for millions of drivers it has a large impact.

Additionally, the Agency developed this proposal in response to a request from industry to rescind the requirement on a much smaller population of carriers. The Agency decided it was appropriate to seek public comment on a rulemaking proposal to apply this regulatory relief to a much larger segment of the motor carrier industry. Since many motor carrier operations are small businesses, this is precisely the type of regulatory review that provides a direct improvement to the bottom line of many small businesses. This rule is currently under internal review at DOT.

FMCSA has also implemented key provisions in MAP-21 that reduce the regulatory burden on small farmers, by expanding an hours-of-service (HOS) exemption for farm-related operations during the planting and harvesting seasons as well as exemptions from other operating regulations for certain farmers. They published guidance on October 1 to ensure our State partners were aware of the regulatory relief provisions in MAP-21 so that farmers could take full advantage of the statutory exemptions.² The

¹Proposed rulemaking entitled: "Inspection, Repair, and Maintenance; Driver-Vehicle Inspection Report: (RIN #2126-AB46).

²Notification of statutory exemptions: "Statutory Amendments Affecting Transportation of Agricultural Commodities and Farm Supplies" <http://www.gpo.gov/fdsys/pkg/FR-2012-10-01/pdf/2012-24106.pdf>

guidance was followed up by a final rule published in March of 2013.

Also, as directed by the Regulatory Flexibility Act, DOT routinely seeks out ways to reduce the effects of its regulations on small businesses. Two examples of this are (1) indexed hazardous materials carrier registration fees, which allow small businesses to pay a lower rate than their larger counterparts, that saved small businesses \$54 million dollars last year and (2) allowances for small railroads to use abbreviated safety procedures, in recognition of the lower level of risk inherent in their operations.

The President's signing of EO 13563 and EO 13610 successfully institutionalized many of the regulatory practices that the Department has long embraced. In addition to our efforts under EO 13563 and EO 13610, DOT has long recognized the importance of regularly reviewing its existing regulations to determine whether they need to be revised or revoked and has had a system in place to do so for almost 35 years. In order to carry out President Obama's executive orders, the Department took swift action and developed an aggressive implementation plan seeking broad input from all our key stakeholder groups and the American public on our plan for identifying and reviewing existing rules that might be outmoded, ineffective, insufficient, or excessively burdensome.

Our results were encouraging. We held a Department-wide public meeting that had about 200 participants, and we received roughly 150 comments as a result of our outreach, all of which were placed into a public docket for review. Commenters ranged from large industry and labor groups to State Departments of Transportation, to small businesses such as owner-operator motor carriers. The comments received from these groups were just as varied as the sources—ranging from detailed critiques of our prior regulatory analyses, to suggestions to improve the grant management process.

In addition to the Department-wide public outreach, FMCSA recently tasked its Motor Carrier Safety Advisory Committee (MCSAC) to provide FMCSA with ideas and concepts to make its reviews under the Regulatory Flexibility Act more effective for both the Agency and the private sector. MCSAC provided its recommendations in April, and they suggest ways of increasing the level of public engagement to ensure we fully address the concerns of small businesses.

We are also committed to using plain English so that small business owners and the general public can understand what we are proposing, understand our methods for estimating the costs, and understand how to respond to us in a way that allows us to consider other alternatives for addressing the safety challenge, at a lower cost. All of our proposed rules and communications with the public incorporate a robust effort to make sure they are understandable. Our guidance on this can be viewed at our plain language website.³

To make certain our rules are reviewed in accordance with these requirements, DOT publishes a plan listing all our regulations and

³ <http://www.dot.gov/regulations/plain-language>

assigns each to a particular year for review over a 10-year period⁴. We then update the plan each Fall, including brief reports on the progress made on the reviews.

In addition to the motor carrier rules mentioned earlier, I would like to outline for you some specific rules that we identified in our most recent *Retrospective Regulatory Review Report* that may have implications for small businesses.⁵ That report lists 89 rulemaking actions that are underway in response to EO 13563, including at least 20 that will have a positive effect on small business. These include, among others, the following:

- FMCSA will propose a rulemaking⁶ concerning e-signatures that would amend various sections of the Federal Motor Carrier Safety Regulations to enable the use of e-signatures in support of electronic recordkeeping. This would save the industry millions of dollars each year by explicitly allowing electronic records and electronic signatures in place of the more burdensome paper records.

- PHMSA is evaluating comments and developing a final rule⁷ that would allow for the certification of fireworks by government-approved laboratories, similar to the process that the Consumer Product Safety Commission uses. It is intended to maintain the current level of safety in certification, but would greatly speed the process, freeing PHMSA's resources from the certification process and saving money for the private sector through quicker certification decisions, potentially saving the industry up to \$19 million per year.

- FAA has proposed a rulemaking⁸ to update, simplify and streamline rules of practice and procedure for filing and adjudicating complaints against airports, including small business complaints. It would improve efficiency by enabling parties to file submissions with the FAA electronically, and by incorporating modern business practices into how the FAA handles complaints. Small businesses, including general aviation operators and aviation service businesses who are often involved in complaints, would benefit from this rule because it would decrease time spent and volume of paper documents needed to process complaints by allowing parties to file electronically.

- FRA is also developing a proposed rule⁹ to take advantage of advancements in technology, which would allow small and commuter railroads to use electronic recordkeeping to maintain the records for review, without submitting them to FRA, which would reduce recordkeeping burdens by approximately 200,000 hours annually for the regulated railroads.

⁴ http://www.reginfo.gov/public/jsp/eAgenda/StaticContent/201210/Preamble_2100.html

⁵ The report can be accessed at: http://www.dot.gov/sites/dot.dev/files/docs/january-2013-dot-rrr-report-final_0.pdf

⁶ Proposed rulemaking entitled: "Electronic Signatures" (RIN# 2126-AB47).

⁷ Notice of Proposed Rulemaking entitled: "Hazardous Materials: Revision of Requirements for Fireworks Approvals" (RIN# 2120-AC41).

⁸ Notice of Proposed Rulemaking entitled: "Rules of Practice for Federally-Assisted Airport Enforcement Proceedings" (RIN# 2120-AJ97).

⁹ Proposed rulemaking entitled: "Hours of Service Recordkeeping Amendments" (RIN# 2130-AC41).

These are only a few of the regulations that we have reviewed in order to carry out our duties under the relevant EOs and the statutory requirements that mandate agency retrospective regulatory review. We invite the Committee to view the entire report, which will give you a much better sense of the breadth of our continuing efforts in this regard, and we stand ready to provide more information or a face-to-face briefing as needed. The January 2013 report can be found on DOT's website:

http://www.dot.gov/sites/dot.dev/files/docs/january-2013-dot-rrr-report-final_0.pdf¹⁰

In conclusion, let me once again thank the Committee for its interest in the Administration's and DOT's work in reviewing and reducing regulatory burdens on small businesses. We share your desire to continuously improve the safety, environmental quality, and consumer protection of our transportation system in a sensible, scientific, and cost-beneficial way while ensuring that American businesses—large and small—are treated fairly so that they can grow and thrive.

I am happy to take your questions.

U.S. SMALL BUSINESS ADMINISTRATION
WASHINGTON, D.C. 20416

TESTIMONY OF

JEANNE A. HULIT

**ASSOCIATE ADMINISTRATOR FOR CAPITAL ACCESS
U.S. SMALL BUSINESS ADMINISTRATION**

BEFORE THE

**U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON SMALL BUSINESS**

MAY 8, 2013

Thank you Chairman Graves, Ranking Member Velázquez and members of the Committee. I am pleased to be testifying before you on the Small Business Administration's (SBA) efforts to streamline its regulations.

In SBA's Office of Capital Access (OCA), we have taken several steps to ease the regulatory burden on small business. We have recently streamlined both our 7(a) and Certified Development Company (CDC) loan programs. The two most significant changes have been to the "personal resources test" and the "size affiliation requirement" for the programs. Both of these proposed changes will increase eligibility for 7(a) and CDC loans, allowing more small businesses to access these critical financing tools.

We have also streamlined the 504 loan closing process. Through this change, SBA is implementing efficiencies in SBA counsel's document review process. This significantly reduces the review time required by SBA counsel and will result in speedier loan package reviews and faster loan closings.

OCA has also reduced the paperwork requirements for many participants in our surety bond program. The Quick Bond Guarantee Application—or "Quick App"—combines the contractor application and SBA's surety agreement into one, easy-to-use form. This reform significantly reduces paperwork and processing times for SBA-backed surety bonds on construction contracts of \$250,000 or less.

In addition to these OCA improvements, there have also been some significant regulatory and paperwork reforms in other SBA programs. For the thousands of small firms that do business with the Federal government, we have helped reduce the time it takes

to get paid. The President's "Quick Pay" initiative cut in half—from 30 days to 15 days—the amount of time it takes the Federal government to pay small businesses. Getting paid sooner means that small businesses can more quickly re-invest those funds in additional working capital, marketing their products, or hiring new workers.

SBA's Office of Disaster Assistance (ODA) reform efforts have focused on further reducing the time it takes to approve loans to disaster victims. In the wake of Hurricane Sandy, ODA developed a pilot "auto-approval" process that uses credit scores and gross income from an applicant's Federal tax return as the basis for the approval decision. If expanded beyond the pilot, the streamlined approval process would significantly reduce SBA's processing costs for smaller disaster loans.

In addition to retrospectively reviewing and revising its own regulations, SBA has also engaged the small business community to find out how other Federal rules and regulations can be adapted to fit the changing needs of emerging entrepreneurs. In 2011, senior Administration officials visited eight cities as part of the Start-up America initiative. At these roundtables, SBA listened to small business owners, entrepreneurs and investors, as they described improvements to processes and regulations that can help build a more supportive environment for entrepreneurship and innovation. Those ideas were described in a report encompassing a broad array of policy areas—from student loans to intellectual property—and we have shared it with our Federal partners and the general public.

I believe SBA has made significant progress in reducing the regulatory and paperwork burdens on America's small business. But work still remains, and we are committed to continuing these streamlining efforts.

I wish to thank you for inviting me to testify on this important topic today, and I look forward to answering any questions you may have.

Statement of Cheryl Cook
Chief Information Officer
United States Department of Agriculture
Before the House Committee on Small Business
May 8, 2013

Chairman Graves and members of the committee, I am pleased to have this opportunity to discuss the Department of Agriculture's efforts to reduce regulatory burdens on small businesses, and to facilitate new business development through cutting-edge research and an array of financial and technical assistance programs. Small businesses, including farms and ranches, create a foundation for prosperity in rural America. They provide millions of jobs, provide an abundant and affordable food supply, and increase our Nation's energy independence. Under President Obama and Secretary Vilsack's leadership, small businesses have been a critical element of our strategy to improve economic opportunity for those living in rural communities. USDA has taken steps to support the productivity and viability of small farming and ranching enterprises, create new opportunity for local and regional marketing, expand conservation efforts and provide support for rural small businesses to expand, grow and hire more. Across each of these efforts, we recognize that farmers, ranchers and rural business owners devote long hours and hard work to their trade—and we have a responsibility to ensure that their efforts are not weighed down by unnecessary, burdensome paperwork.

Given the unique nature of USDA's work, its close relationship with rural America, and its related sensitivity to the small businesses that foster economic growth, the Department was eager to undertake a review of its regulations and paperwork activities as required by Executive Orders 13563 and 13610. Our goal was to identify significant rules and information collections that were obsolete, unnecessary, unjustified, excessively burdensome, or counterproductive to our efforts to revitalize rural America.

USDA has taken steps to revise or repeal regulations that are unnecessary as a result of changed circumstances, or are duplicative or inappropriately burdensome. To accomplish this, USDA has internal procedures that establish a process for the development and review of all regulatory actions to ensure that USDA's regulatory actions foster economic growth; respect the role of State, local, and tribal governments; and do not impose unreasonable costs on society. The procedures cover the full rulemaking cycle, starting when the need for a regulatory action is first identified, and carries through drafting, technical, legal, policy, and interdepartmental review, publication of proposed rule in the Federal Register, receipt of public comments, and publication of a final rule for inclusion in the Code of Federal Regulations.

In order to implement Executive Orders 13563, “Improving Regulation and Regulatory Review” and 13610, “Identifying and Reducing Regulatory Burdens” Deputy Secretary Kathleen Merrigan directed a retrospective review team comprised of mission area and agency-level regulatory review coordinators and work groups. The team initiated a review of USDA regulations that focused on increasing the public’s access to critical USDA programs, particularly those programs where access could be simplified and the reporting burdens reduced. The intent was to minimize burdens on individuals, businesses and communities attempting to access programs that promote economic growth, create jobs, and protect the health and safety of the American people.

The review encompassed the activities of the largest regulatory and service delivery organizations in the Department: RD, RMA, FSA, National Resources Conservation Service (NRCS), the Food Safety and Inspection Service (FSIS), the Forest Service (FS), and the Animal and Plant Health Inspection Service (APHIS). These agencies offered the best opportunities to achieve President Obama’s goals for promoting regulatory innovation and reducing reporting burdens, while simultaneously reducing administrative and operating costs.

In order to identify candidates for analysis, USDA considered several factors in setting priorities. A number of these factors are outlined under Section 610 of the Regulatory Flexibility Act including: the continued need for the regulation; the nature of comments or petitions received concerning the regulation from the public; the complexity of the regulation; the extent to which the regulation overlaps, duplicates, or conflicts with other Federal regulations, and, to the extent applicable, with State and local government regulations; the length of time since the regulation has been evaluated, and the degree to which technology, economic conditions, or other factors may have changed in the areas affected by the regulation. For the purposes of implementing E.O. 13563, USDA also considered the urgency for improving customer service by simplifying, streamlining, or improving quality for information collection procedures; comments from stakeholders; resource capacity and potential approval process timelines; and need for statutory change.

USDA invited the public to participate in its review through the publication of a Request for Information (RFI) in the Federal Register on April 20, 2011. USDA also invited the public to participate through its Open Government Web site. In addition, USDA’s largest regulatory and service delivery organizations conducted independent public outreach activities employing a variety of mechanisms, including social media and traditional RFI’s to continue seeking input from the public. Through this efforts, over 2,100 public comments were received from a broad range of stakeholders, including individuals, regulated entities, trade groups, and USDA employees.

Based on USDA’s evaluation and public input, USDA released its *Final Plan for Retrospective Analysis* on August 18, 2011. The final plan, which was subsequently updated to reflect input for Executive Order 13610, identifies 13 initiatives that would significantly

reduce regulatory burdens and several initiatives aimed at reducing paperwork burdens. Of these, eight were featured in USDA's Fall 2012 Statement of Regulatory Priorities as regulatory actions that would significantly reduce burdens on small business.

Since the release of its *Final Plan for Retrospective Analysis*, USDA has made progress in implementing these initiatives. For example:

On January 23, 2012, FSIS published a proposed rule for Electronic Export Application and Certification Fee to make the export component of Agency's Public Health Information System (PHIS) available as an alternative to the paper-based application and certification process.

On November 27, 2012, FSIS published a proposed rule for Electronic Import Inspection and Certification of Imported Products and Foreign Establishments, which is intended to reduce the information collection burden on importers by approximately 10,000 hours. We are moving forward with a proposed rule to expand FSIS' use of generic labeling.

On April 12, 2013, RD's Rural Business Service published a rule that proposes to streamline grant application requirements. The final rule is expected to reduce the information collection burden by reducing the number of hours it takes to complete a technical report for projects with total project costs (TPC) of more than \$80,000 to \$200,000; eliminating the requirement for a technical report for projects with TPC of \$80,000 or less; and reducing the number of hours it takes to complete the application.

USDA also has made significant investments in information technology to reduce red tape and make it easier to access USDA's financial and technical assistance programs. While many of USDA's 19 agencies have IT modernization efforts underway to push their programs to the Web, most notable is Farm Service Agency's Modernize and Innovate the Delivery of Agricultural Systems (MIDAS) initiative, the first phase of which was implemented in FSA field offices this month. MIDAS aims to provide FSA employees with better tools to provide stronger service for producers by logging into a single system rather than toggling among several and, for the first time, fully integrates GIS technology with information about farm, fields and crop histories.

USDA continues to accept comments from the public on any of its regulations and continues to look for ways to advance the mission of USDA consistent with the Executive Orders. Consistent with the need for periodic review of its regulations, USDA has continued to employ its Open Government Web site to give the public an ongoing forum to provide input and discuss the retrospective analysis of regulations, and to help USDA formulate plans for future reviews. If, at any time, members of the public identify possible reforms to streamline requirements and to reduce existing burdens, USDA will give those suggestions careful consideration. USDA is committed to identifying inefficient, duplicative, or obsolete regulations and to identify ways to reduce program burdens and increase access.

That concludes my statement for the record. I would be happy to answer any questions.

