

TESTIMONY BEFORE THE UNITED STATES CONGRESS
ON BEHALF OF THE
NATIONAL FEDERATION OF INDEPENDENT BUSINESS

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THE HOUSE COMMITTEE ON ENERGY AND COMMERCE
SUBCOMMITTEE ON ENERGY AND POWER

“EPA’s Greenhouse Gas Regulations and Their Effect on American Jobs.”

March 1, 2011

Good morning, Chairman Whitfield, Ranking Member Rush and members of the subcommittee. Thank you for giving me the opportunity to speak with you today regarding the impact of Environmental Protection Agency (EPA) regulation of greenhouse gases (GHGs) under the Clean Air Act (CAA) on small businesses, in particular their potential to cause job loss.

I am the owner of James River Air Conditioning, Inc. located in Richmond, VA. We perform HVAC, plumbing, electrical, solar, and geothermal work on residential and commercial construction and remodeling projects. We currently have 150 full-time employees. My father started the company in 1967, and I began working for him when I was in high school. After college, I joined the company full time, working my way up through the sales department and became president in 1993.

I have always made it a priority to conduct business with the environmental consequences of our decisions and actions kept in mind. I am a member of the U.S. Green Building Council and conduct LEED certified green housing projects. In fact, we designed, supervised and constructed the first certified LEED Platinum house in Richmond, which was completed in September 2010. Ninety-five percent of its energy use is from solar power. It is also connected to a Google power meter that gives itself a daily efficiency rating. We further our efficiency at our office building, which generates 10 percent of the power consumed with a PV Solar system installed on the roof. I drove to DC in my Smart car, and I have two electric cars on order for my business.

I am making these examples for two chief reasons: because I have bet my entire net worth and the future success of my business on conservation, green construction, reducing greenhouse gasses and implementing practical, green strategies for myself and my clients; and, because I think it is the right way to run my business. It makes good business sense and I want to leave the world a better place. I want to emphasize that I and many other small business owners choose to run our companies this way – without government mandates.

America can and will reduce pollution of all types without punitive, expensive and complicated government regulations. Consumer demand and a business's cost saving strategies will naturally lead to changes that will reduce the five gasses the EPA is attempting to further regulate. The changes are occurring now. My small business is a great example. Most businesses want to market themselves as "green" and are moving quickly without government intervention. Attempts by the EPA to regulate GHGs under the CAA will only drive up costs and hinder economic recovery – particularly in the construction industry.

Construction constitutes approximately 20 percent of our economy. Currently, new construction is down 50 to 90 percent. If we want to create jobs, entrepreneurs must be willing to take risks – risks similar to the ones I have taken. Right now houses and commercial buildings in Richmond are selling for less than the cost of the raw materials it would take to rebuild them. Owners and developers already have so many permit processes to complete, hours of legwork, and a mountain of fees, it is nearly impossible to get a project through to approval now. We routinely see six month approval periods to get a project from the design phase and through the permit processes that are already required. The EPA's current effort – would slow my projects down even further.

The cost of modeling, engineering, reviewing, permitting, and cutting through general red tape to get the type of permit that would result from the EPA's greenhouse gas regulations would stop most private projects. I would estimate that the additional consulting costs would add 2 to 10 percent to project costs.

My material, labor, insurance and energy costs are all increasing, yet my buildings are selling for much less. Any new permitting or mandates that increase costs, like the EPA's regulatory threats, could really be the end to what little economic recovery we are experiencing.

EPA's regulatory agenda

EPA's regulation of GHG emissions from stationary sources will have a significant economic impact on small business since, according to EPA's own numbers, millions of sources (a large percentage of which are small businesses) could become subject to Prevention of Significant Deterioration (PSD) and Title V permitting requirements. The EPA's Tailoring Rule would merely temporarily delay inevitable and onerous permitting requirements.

As the Tailoring Rule gets set to go into effect, confusion and uncertainty about the rules will be felt by small business and by regulators at local, state, and federal levels. Adding to the uncertainty is the fact that the Tailoring Rule does not preempt state law, so it does not preclude individual states from requiring permits for smaller entities. In addition, the Tailoring Rule is subject to multiple legal challenges, creating more confusion regarding the regulatory landscape for small businesses in the near future.

Trying to account for risks and uncertainties imposes a greater burden on small businesses than on other economic actors, because regulations affect small businesses in a substantially different way than they affect large businesses. Due to the already heavily regulated nature of the construction industry, I have a full-time employee dedicated to monitoring and ensuring compliance with all regulations, including permits. Additional employees contribute to regulatory compliance, also. Convolutioned regulations, such as EPA's greenhouse gas rules and their legalistic nuances, formalizing plans for implementation, and filling out the necessary, voluminous paperwork are still an extremely burdensome exercise for my business.

The uncertainty with regard to future regulatory action by both EPA and state permitting authorities is extremely troublesome. Simply put, more confusion and greater uncertainty means less work and fewer jobs. The regulatory environment coming out of Washington means small firms like mine are continually and increasingly dissuaded from making long-term business investments. Instead of taking on new projects which, in turn, could add jobs in industries like mine, we will be forced to remain stagnant.

Increase in costs associated with the EPA's regulatory agenda

Overzealous regulation is a perennial cause of concern for small business owners, and is particularly burdensome in times like these when the nation's economy remains sluggish. Unfortunately, the regulatory burden on small business has only grown. A recent study by Nicole and Mark Crain for the U.S. Small Business Administration Office of Advocacy found that the total cost of regulation on the American economy is \$1.75 trillion per year¹.

If that number is not staggering enough, the study reaffirmed that small businesses bear a disproportionate amount of the regulatory burden. The study found that for 2008, small businesses spent 36 percent more per employee on regulation than their larger counterparts, and 364 percent more on environmental regulations. Environmental regulations alone cost my business upwards of \$150,000 per year. Combining that with other regulations, total regulatory cost for my business is nearly \$250,000 per year.

¹ Crain, Nicole and Mark Crain. *The Impact of Regulatory Costs on Small Firms*. September 2010

As a small business owner, my recommendation is that instead of assessing punitive actions on business, you should continue to incentivize environmentally friendly behavior. The Energy Star program is one such example. This is the only way we will succeed in reducing greenhouse gases and pollution. We must give our nation's power companies, developers, consumers and municipalities flexibility and guidelines to improve our emissions. Regulations always have unintended consequences and significant hidden costs.

The EPA's efforts to regulate greenhouse gases will substantially enlarge the regulated community, increase standards to near impossible levels, and impose severe paperwork and compliance burdens on small business owners at a time when America's small businesses can least afford it.

Thank you again for having me here today and I'm happy to answer any questions.