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3 HEARING ON ENVIRONMENTAL REGULATIONS, THE ECONOMY AND JOBS

4 TUESDAY, FEBRUARY 15, 2011

5 House of Representatives,

6 Subcommittee on Environment and Economy

7 Committee on Energy and Commerce

8 Washington, D.C.

9 The subcommittee met, pursuant to call, at 1:04 p.m., in
10 Room 2322 of the Rayburn House Office Building, Hon. John
11 Shimkus [Chairman of the Subcommittee] presiding.

12 Members present: Representatives Shimkus, Murphy,
13 Whitfield, Pitts, Bono Mack, Bass, Latta, McMorris Rodgers,
14 Harper, Cassidy, Gardner, Barton, Upton, Green, Butterfield,
15 Barrow, Pallone, Capps, and Waxman (ex officio).

16 Staff present: David McCarthy, Counsel; Jerry Couri,
17 Senior Environment Policy Advisor; Peter Kielty, Senior
18 Legislative Clerk; Chris Sarley, Senior LA; Alex Yergin,

19 Legislative Clerk; Elizabeth Lowell, Legislative Clerk;
20 Jacqueline Cohen, Minority Counsel; Alison Cassaday, Minority
21 Professional Staff Member; and Caitlin Haberman, Minority
22 Policy Analyst.

|

23 Mr. {Shimkus.} We will call the subcommittee to order.
24 Again, first of all, you know, apologies for being a few
25 minutes late. We just finished a vote in the full committee,
26 so people will be meandering up here. Also, we are supposed
27 to have a recorded vote around 1:15 to 1:30, so our intent is
28 to start getting the testimony, opening statements out of the
29 way, and then hopefully we can move expeditiously.

30 And I will begin. I would like to welcome everyone to
31 the first hearing of the Environment and the Economy
32 Subcommittee for the 112th Congress. I am honored to serve
33 as the chairman of the subcommittee and excited about the
34 opportunity to work with members from both sides of the
35 aisle. I particularly want to welcome and congratulate Mr.
36 Green on being named ranking member. We have already spoken
37 numerous times. We are friends from many years, more than we
38 would like to mention, and I have enjoyed working with him in
39 the past and look forward to doing so in our future
40 capacities on this subcommittee.

41 From taking a shower in the morning to turning off the
42 lights before bed, our daily lives are constantly touched by
43 environmental regulations under the jurisdiction of this
44 subcommittee. That might be obvious from its name, but what
45 not be so clear is the important nexus with economy portion

46 of the title. Due to environmental regulations, families
47 have to pay higher rates to turn on those lights or water,
48 and there is also the great impact that these higher costs
49 have a consequence.

50 As we have heard from Timberland last week of forcing
51 jobs overseas when overbearing regulations stifle the
52 marketplace. It is a necessary and healthy exercise to
53 review regulations to make sure congressional intent is being
54 followed and the best interests of our nations are protected.
55 We cannot just look at regulations in individual silos.

56 People don't have the luxury of being able to comply
57 with regulations in the abstract or singularity. Rather,
58 they must face all regulations together at the same time.
59 That is why I think we need to weigh the benefits compared to
60 the collective burdens placed on businesses trying to
61 navigate through a struggling economy to keep jobs here and
62 at home.

63 More to the point, while one regulation alone may not
64 close a business, the cumulative effect could be devastating,
65 resulting in death by 1,000 cuts. Since 2009 when President
66 Obama took office, the U.S. Environmental Protection Agency
67 has finalized 928 rules and proposed 703 others. As we
68 overload the nation with these proposed and finalized
69 regulations, we need to ensure that in an effort to do a good

70 thing, our government is not creating unintended
71 consequences.

72 According to the U.S. Chamber of Commerce, the problem
73 is not simply the EPA is issuing a lot of regulations, rather
74 it is that it has significantly increased the number of major
75 rules. That is to say rules costing the regulating community
76 more than \$100 million. These regulations typically ensnare
77 multiple industry sectors and have economy-wide costs usually
78 measuring in billions or even trillions of dollars, making
79 their economic impact so widespread that multiple sectors of
80 the economy must face substantial compliance costs.

81 This is not sustainable for our economy. Regulating
82 existing businesses into the ground on the hope that better
83 ones will come later is irresponsible. Policies like those
84 have starved free enterprise, bankrupting many larger States.
85 We must protect jobs that exist now while working to open the
86 doors for new opportunity to do business in the United
87 States.

88 It is also no secret that our federal budget problem is
89 also infringing on the ability of private persons to access
90 capital to expand their businesses. For this reason, our
91 regulations should attack the worst problems first, doing so
92 in a way that avoids broad brushstrokes that insist on
93 expensive but nonproductive requirements that take resources

94 away from businesses that would otherwise be growing our
95 economy. There is a finite pot of resources that the
96 Federal, State, local and private interests can bring to bear
97 on any particular problem. Once those resources are
98 committed to a problem, they are gone, leaving that much less
99 to attack the remaining problems we face.

100 Let me be clear. We are not seeking to strip basic
101 public health and safety protections. Public health should
102 be protected in a way that encourages all public welfare. A
103 climate that welcomes development and encourages reinvestment
104 creates a kind of wealth and fairness that needs to be
105 encouraged. As chairman of this subcommittee, I work to make
106 certain any environmental policies derive from this
107 subcommittee will promote the public welfare as a whole while
108 sustaining and creating new jobs and growth in our economy by
109 letting valid, objective and repeatable science drive the
110 debate.

111 This is a critical aspect EPA has strayed from in recent
112 years, and Congress must work with the Administration to
113 refocus this attention. Today's hearing, Environmental
114 Regulations: The Economy and Jobs, is a fitting start to this
115 mission and will provide the subcommittee a solid foundation
116 to build.

117 Our first panel will give us a broad view of the

118 economics regulations and processes issued by EPA to
119 understand where they are causing exasperate economic
120 problems, or in other cases, where gaps might exist.
121 Witnesses on the second panel will give us a direct
122 perspective on EPA regulations that are affecting small
123 businesses and possible consequences moving forward.

124 I particularly would like to welcome Leonard Hopkins
125 from the Southern Illinois Power Cooperative for being here
126 today. Through the co-op, Mr. Hopkins helps supply power
127 with reasonable utility rates to constituents in my district.
128 Unfortunately a proposed coal combustion residue regulation
129 may put their ability to serve over 250,000 customers in
130 rural Illinois in jeopardy.

131 It is unrealized stress like these that make it
132 essential we understand the full spectrum of effects
133 regulations may have. All of our witnesses here today are
134 valuable to our understanding, and I would like to thank them
135 all for taking the time to be here. Their testimony and
136 participation with questions will help us better understand
137 the jobs and economic growth and the relationship to our
138 regulatory framework.

139 And with that, I will stop, and I will yield time to the
140 Ranking Member Mr. Green from Texas.

141 [The prepared statement of Mr. Shimkus follows:]

142 ***** INSERT 10 *****

|
143 Mr. {Green.} Thank you, Mr. Chairman. I want to thank
144 you for calling the hearing today because we all share an
145 interest in ensuring appropriate balance between the cost and
146 benefits in environmental regulation. I would also like to
147 thank all our witnesses, not only on the first panel, but
148 also for the second for taking their time to be here today.

149 I also want to thank Chairman Shimkus for favorably
150 responding to the request, mine along with Ranking Member
151 Waxman's written request that two additional minority
152 witnesses on the second panel, our county attorney for Harris
153 County, Houston, Texas, Vince Ryan, and Wendy Neu of the Hugo
154 Neu Corporation.

155 The addition of these witnesses to today's panels will
156 present a balance discussion. I hope that for future
157 hearings this committee will continue to strive for fair and
158 balanced panels to allow a real examination of the important
159 issues.

160 I would also like to take a moment to describe some of
161 the benefits and potential benefits of environmental
162 regulation that I hear when I meet with companies in green
163 industries, like Hugo Neu Corporation, which is leading the
164 way on recycling electronic waste. My staff and I have
165 worked with many stakeholders in recycling companies such as

166 the one owned by Wendy Neu as we introduced legislation year
167 and have been developing revised legislation for electronic
168 waste. It is my hope that we can have a hearing on the
169 legislation when we introduce and hear from some of the green
170 businesses that will welcome the new economic benefit of the
171 new e-waste regulations.

172 I also hear about the benefits of environmental
173 regulations from my constituents who know all too well that
174 environmental regulation can have significant economic
175 benefits in the form of avoided cost. For years, I have been
176 working with local officials in Harris County, Texas to
177 address a significant threat from a Superfund site near our
178 district, the San Jacinto Waste Pits.

179 In the 1960s, a paper mill in our district dumped dioxin
180 containing waste into a waste pit on a sand bar in the San
181 Jacinto River. Unfortunately, the Resource Conservation
182 Recovery Act did not yet pass, and regulations for disposal
183 of the dioxin waste from paper mills were not yet developed.
184 If these regulations had been in place, the waste would not
185 have been dumped where they were, and the Superfund site
186 would not have to be created. Now that the San Jacinto River
187 has reclaimed that sandbar, the contamination is widespread
188 and cleanup will be very costly.

189 Harris County officials and EPA have been working hard

190 to ensure that taxpayers don't bear the cost of that cleanup,
191 and they are continuing to fight. Proper waste regulations
192 could have avoided these cleanup costs and these litigation
193 costs and could have protected the people of our district.

194 With that, I would like to thank the witnesses again for
195 appearing today, and particularly thank Wendy Neu and Vince
196 Ryan who are appearing on very short notice. Mr. Ryan is our
197 Harris County attorney, and his office has worked diligently
198 on the San Jacinto Waste Pits for several years. And I know
199 the Houston area and our district particularly appreciate it.

200 Mr. Chairman, I look forward to working with you, and I
201 appreciate the first hearing.

202 [The prepared statement of Mr. Green follows:]

203 ***** COMMITTEE INSERT *****

|
204 Mr. {Shimkus.} Thank you, Mr. Green. Now I would like
205 to recognize Chairman Emeritus Barton for 2 minutes.

206 Mr. {Barton.} Thank you, Mr. Chairman. I will submit
207 the full subject for the record. I want thank our witnesses
208 for attending today's hearing. Your subcommittee, Mr.
209 Chairman, is the third subcommittee of the Energy and
210 Commerce Committee to hold a hearing on the promulgation of
211 the regulations and the economic impact that those
212 regulations have on our economy. We have heard from the
213 Environmental Protection Agency and the Office of Regulatory
214 Affairs of the Obama Administration with the other two
215 subcommittees.

216 Today we are going to hear from the private sector and
217 see how these regulations impact the economies in their parts
218 of the country. Unemployment is over 9 percent, Mr.
219 Chairman. The mantra on both sides of the aisle is jobs,
220 jobs, jobs. The Obama Administration says that they want
221 their regulations to pass some sort of a cost/benefit
222 analysis. But we know, especially at the Environmental
223 Protection Agency, that they tend to pay only lip service to
224 that. So in today's hearing, I am sure we are going to hear
225 from the private sector how those regulations impact them,
226 and we are also going to hear probably some good input on

227 what kind of a cost/benefit and economic analysis should be
228 done.

229 With that, Mr. Chairman, I yield back, and I look
230 forward to your chairmanship of this vital subcommittee.

231 [The prepared statement of Mr. Barton follows:]

232 ***** COMMITTEE INSERT *****

|
233 Mr. {Shimkus.} Gentleman yields back his time. Now,
234 the chair recognizes the Chairman of the full committee, Mr.
235 Upton from Michigan.

236 The {Chairman.} Well, thank you, Mr. Chairman. I am
237 sorry I am a moment late from being downstairs. This is an
238 important hearing. Your testimony is crucial to helping us
239 understand what improvements are needed in the regulatory
240 process to ensure that it allows for economic prosperity.

241 Somehow we have lost our way. Those small businesses
242 and manufacturers who should be driving our economic recovery
243 are choking from burdensome red tape, weathering in an
244 agency-wide regulatory epidemic that seems bent on
245 accomplishing a single-minded purpose without regard to
246 fixing the economy and protecting jobs. Not to mention
247 environmental regs also substantially raise costs on the
248 public sector, and these costs are not easily absorbed.

249 Just this past December, EPA published guidelines for
250 preparing economic analyses. This document is to govern
251 EPA's regulatory actions. It states ``regulatory-induced
252 employment impacts are not in general relevant to the
253 benefit/cost analysis.'' The bureaucratic insensitivity
254 towards those folks in Michigan and across the nation who are
255 struggling to make ends meet is stunning. It is guidelines

256 like this that have catapulted the country into a perpetual
257 state of soaring unemployment and economic uncertainty. The
258 time has come to stop asking the American family, the
259 American small business, the innovators, and the risk takers
260 to bear any burden and pay any price.

261 Many of our constituents who are struggling to compete
262 in this tough economy say that government regs are like a
263 piano on their back. Despite executive orders from a number
264 of presidents calling for economic impact analyses or job
265 impact analyses, the relief never seems to come. We have to
266 focus the government on serving the people instead of
267 hamstringing them.

268 Mr. Chairman, these values and principles should drive
269 the president in all federal agencies. No one here today is
270 saying don't regulate. We are simply saying regulate only
271 when the good it will accomplish clearly outweighs the harm.
272 Today's hearing is a positive step forward on that journey to
273 help the executive branch develop a conscience and an
274 understanding about the impact and the economy and jobs and
275 families for every regulation it pursues. So let us get
276 going. Thank you. Yield back.

277 [The prepared statement of Mr. Upton follows:]

278 ***** INSERT 11 *****

|
279 Mr. {Shimkus.} Gentleman yields back his time. Now
280 recognize Mr. Gardner from Colorado for 30 seconds.

281 Mr. {Gardner.} Thank you, Mr. Chairman. In the short
282 time that I have been in this Congress, I have had an
283 incredible number of people come into my office and talk
284 about the effect that regulations have or may have on their
285 business. Our country is still fighting its way out of a
286 recession, and our government's response many times seems to
287 be adding more handcuffs than solutions.

288 We have an obligation to our environment, to our
289 children, and future generations, but it is time we do so in
290 a common sense way driven by the interests of the people and
291 not the special interests.

292 [The prepared statement of Mr. Gardner follows:]

293 ***** COMMITTEE INSERT *****

|
294 Mr. {Shimkus.} Gentleman's time has expired. If the
295 Chairman Emeritus--you know, we only have 30 seconds left. I
296 will give you a chance to get situated, and then we will let
297 Cathy McMorris Rodgers for 30 seconds are recognized right
298 now.

299 Ms. {McMorris Rodgers.} Thank you, Mr. Chairman. I
300 thank you for holding this important hearing, and I thank all
301 the witnesses for taking time out of their schedules to be
302 here. I wanted to give a special welcome to Joe Baird,
303 president of the Northwest Mining Association for being here
304 today.

305 Despite effective safeguards, the EPA has decided that
306 it needs to step in and add regulations that will all but
307 certain drain the mining industry of its capital, making us
308 more dependent upon other countries for important minerals.

309 I mentioned on the floor last week this is not what
310 America is about, and I look forward to hearing from our
311 witnesses on how we can keep the dream alive.

312 [The prepared statement of Ms. McMorris Rodgers
313 follows:]

314 ***** COMMITTEE INSERT *****

|
315 Mr. {Shimkus.} I thank the gentlewoman, and now I
316 recognize Chairman Emeritus, Mr. Waxman, for 5 minutes.

317 Mr. {Waxman.} Thank you very much, Mr. Chairman.
318 Today's hearing is entitled Environmental Regulations: The
319 Economy and Jobs. I think this is a worthy topic for
320 discussion if we do it right. Unfortunately, I am concerned
321 that today's hearing may simply be a platform for complaints
322 about our landmark laws designed to protect taxpayers and the
323 public health.

324 We will hear complaints about Superfund, The Resources,
325 Conservation and Recovery Act, The Toxic Substances Control
326 Act. We will hear complaints about laws outside of this
327 subcommittee's jurisdiction like the Clean Air Act. The
328 environmental laws we will discuss today form the cornerstone
329 of public health protections. Before Superfund and RICRA,
330 there was Love Canal, a New York neighborhood built atop of
331 thousands of tons of toxic waste, carelessly disposed of in a
332 ditch.

333 Before The Safe Drinking Water Act, the American public
334 had no assurances that the water coming from their tap was
335 free of cancer-causing chemicals and dangerous bacteria.
336 Today we will hear precious little about the benefits of
337 protecting the public health from these toxic exposures.

338 Instead the subcommittee is likely to focus solely on the
339 economic costs of environmental regulations. I have no
340 objection to discussing the economics of environmental
341 regulation, but any fair and balanced discussion should
342 include both sides of the equation, the economic benefits as
343 well as the costs.

344 Environmental regulations protect the economy as well as
345 society from the devastating cost of pollution. In the
346 absence of sound regulation, when polluters are allowed to
347 pollute, the costs of that pollution don't simply disappear.
348 Instead, innocent parties have to pick up the tab. Our
349 health care system has to bear the weight of asthmatic
350 children and more adults with cancer. Businesses have to
351 absorb the costs of employees who miss work due to chronic
352 illness.

353 Municipalities have to cover the costs of cleaning up
354 toxic pollution before it reaches drinking water supplies.
355 Environmental regulations protect the public from these
356 impacts. They can also stir economic growth and job
357 creation. Expenditures for environmental compliance spur
358 investment in the design, manufacture, installation, and
359 operation of equipment to reduce pollution.

360 EPA recently estimated that The Clean Air Act's total
361 benefit to the economy is projected to hit \$2 trillion by

362 2020, outweighing costs by 30 to 1.

363 It is a tenet of our society that we hold people
364 accountable for their actions and that we offer protection to
365 those who can't protect themselves. When a coal-burning
366 power plant fails to invest in new pollution control
367 equipment to reduce its toxic mercury emissions, it damages
368 the way our children think and learn. That is why the
369 responsible party, in this case the coal plant, has an
370 obligation to control its emissions.

371 As I have said previously, let us put aside the false
372 and hyperbolic claims about regulations killing jobs. No one
373 supports unnecessary or duplicative regulations. But let us
374 also not hesitate to regulate when needed to protect our
375 economy and public health.

376 Thank you, Mr. Chairman. Yield back the time.

377 [The prepared statement of Mr. Waxman follows:]

378 ***** COMMITTEE INSERT *****

|
379 Mr. {Shimkus.} And I thank the Chairman Emeritus. Now
380 I would ask unanimous consent that all members of the
381 subcommittee have 5 legislative days to submit opening
382 statements for the record. Without objection, so ordered.

383 Now, I would like to welcome our first panel, and you
384 will be recognized for 5 minutes. Your full statement will
385 be submitted for the record. If you can do, you know, a
386 brief, executive summary, and then we will go into questions.

387 I would like to first--and I want to thank you for
388 coming. I would like to first recognize Randall--is it
389 Lutter--Lutter, Ph.D., visiting scholar from Resources for
390 the Future. Sir, you are recognized for 5 minutes.

|
391 ^STATEMENTS OF RANDALL LUTTER, VISITING SCHOLAR, RESOURCES
392 FOR THE FUTURE; KAREN HARNED, EXECUTIVE DIRECTOR, NFIB LEGAL
393 CENTER; CHRISTOPHER DEMUTH, D.C. SEARLE SENIOR FELLOW,
394 AMERICAN ENTERPRISE INSTITUTE; AND RENA STEINZOR, PRESIDENT,
395 CENTER FOR PROGRESSIVE REGULATION, UNIVERSITY OF MARYLAND
396 SCHOOL OF LAW

|
397 ^STATEMENT OF RANDAL LUTTER

398 } Mr. {Lutter.} Thank you very much, Mr. Chairman,
399 honorable members of the committee. I am pleased to appear
400 today to offer my views on Environmental Regulation: The
401 Economy and Jobs, an important topic because both the
402 environment and--

403 Mr. {Shimkus.} Sir, if you could just pull your mike
404 down a little bit further.

405 Mr. {Lutter.} Are important to Americans. As an
406 economist, I believe that careful analysis of the effects of
407 regulations can help in designing regulations to offer clear
408 net benefits to Americans and to avoid unnecessary burdens.
409 Careful regulatory analysis can also help promote both public
410 understanding of regulatory decisions and accountability for
411 the regulators.

412 I speak as an economist who has been involved in
413 regulatory policy for more than 2 decades. I have had the
414 privilege of serving Democratic and Republican presidents,
415 including positions at the Federal Office of Management and
416 Budget, the President's Council of Economic Advisors, and the
417 Food and Drug Administration. I am currently visiting
418 scholar at Resources for the Future, a nonprofit, nonpartisan
419 organization that conducts independent research on
420 environmental energy, natural resource, and environmental
421 health issues. I have conducted research at the American
422 Enterprise Institute and the AEI Brookings Joint Center for
423 Regulatory Studies. I have no conflicts of interest to
424 report, and I emphasize that the views I present today are
425 mine alone. RFF takes no institutional position on
426 legislative, judicial, regulatory, or other public policy
427 matters.

428 An important concern these days is employment. The
429 commissioner of the Federal Bureau of Labor Statistics
430 recently announced the unemployment rate declined from 9.4 to
431 9 percent in January. Nonfarm employment, now about a
432 million over the low of a year ago, is 7.7 million below the
433 highest level of the last decade, nearly 138 million jobs.
434 Plus nonfarm employment needs strong and sustained growth to
435 match levels seen before the recent recession. Cyclical

436 transit employment and unemployment are, however, a
437 macroeconomic phenomenon best addressed through fiscal and
438 monetary policy and sound financial regulation topics beyond
439 my scope today.

440 The consensus view among economists about the role of
441 economic analysis and environmental regulation is that it is
442 an exceptionally useful framework for consistently organizing
443 disparate information, and in this way, it can greatly
444 improve the process and the outcome of policy analysis and
445 deliberations. This idea has become part of a centralized
446 process of regulatory review outlined in Executive Order
447 12866, which President Clinton issued in '93, replacing an
448 earlier executive order of comparable scope signed by
449 President Reagan.

450 Executive Order 12866 does not mention employment or
451 jobs in its 12 principles, but it directs agencies to conduct
452 an assessment including the underlying analysis of costs
453 anticipated from the regulatory action, such as any adverse
454 effects on the efficient functioning of the economy including
455 productivity, employment, and competitiveness.

456 President Obama's January 18 Executive Order 13563 on
457 improving regulation and regulatory review reaffirms the
458 earlier one and mentions the promotion of job creation under
459 general principles.

460 I turn to how the Environmental Protection Agency has
461 analyzed and considered possible effects of its regulations
462 on employment. I have looked at several regulatory impact
463 analyses of proposed major rules recently released by the
464 agency and found a variety of practices. For two
465 regulations, coal combustion and ozone, EPA provided no
466 information and no explanation for the lack of analysis. One
467 of these, a proposed standard for ozone, is very likely to
468 have adverse effects on local labor markets because of the
469 difficulty of achieving cuts in emissions of 90 percent or
470 greater. EPA has estimated positive but statistically
471 insignificant effects on employment for one regulation,
472 industrial boilers, and modest negative effects for another,
473 Portland Cement.

474 Evaluating these different approaches to employment
475 effects is difficult because ONB's guidance implementing
476 Executive Order 12866 does so little to clarify how agencies
477 should assess effects on employment. Recently, however, EPA
478 has released a new guidance on this issue.

479 My own recommendations, regulatory agencies first should
480 issue regulations only where the benefits demonstrably
481 justify the cost, and they should take full advantage of
482 statutory authority to use market-based regulatory
483 mechanisms.

484 In addition, the Office of Management and Budget should
485 issue an addendum to A4 about how agencies should analyze
486 effects of regulations on employment, but only after
487 soliciting and considering public comment and genuinely
488 independent expert advice. The focus of such guidelines
489 should be on identifying what employment can be quantified
490 reliably and what quantifications procedures are appropriate,
491 and the guidelines should reconsider excluding from
492 benefit/cost analysis the cost of job losses induced by
493 regulations.

494 The guidelines should also provide for distributional
495 analyses of effects on those workers who are at significant
496 incremental risk of job loss and who would face barriers to
497 finding another job.

498 I understand my written testimony will be part of the
499 record, and I will be, of course, available for questions.

500 [The prepared statement of Mr. Lutter follows:]

501 ***** INSERT 1 *****

|
502 Mr. {Shimkus.} Thank you, Dr. Lutter. Now I would like
503 to recognize Ms. Karen Harned, executive director, NFIB Legal
504 Center. Welcome, and you have 5 minutes.

|
505 ^STATEMENT OF KAREN HARNED

506 } Ms. {Harned.} Thank you. Good afternoon, Chairman
507 Shimkus and Ranking Member Green. NFIB, the nation's largest
508 small business advocacy organization, appreciates the
509 opportunity to testify on the importance of assessing small
510 business impact in the regulatory process. Overzealous
511 regulation is a perennial cause of concern for small business
512 owners and is particularly burdensome in times like these
513 when the nation's economy remains sluggish.

514 According to a recent study, regulation costs the
515 American economy \$1.75 trillion a year. More concerning,
516 small businesses face an annual regulatory cost of \$10,585
517 per employee, 36 percent more than the regulatory cost facing
518 businesses with more than 500 employees. Job growth in
519 America remains stagnant. Although small businesses create
520 two-thirds of the net new jobs in this country, the NFIB
521 research foundation's most recent addition of ``Small
522 Business Economic Trends'' revealed in the next 3 months, 12
523 percent of respondents planned to increase employment, while
524 8 percent plan a reduction in workforce.

525 Small business owners consistently cite government
526 regulation as one of their primary problems in running their

527 business. In its most recent addition of SBET, the NFIB
528 research foundation found that 17 percent of small business
529 owners describe government regulations and red tape to be
530 their single most important problem. Only taxes and poor
531 sales were more commonly cited. In fact, for the past 26
532 months of the survey, regulation and red tape has been in the
533 top three of problems. This is not a recent trend either.

534 NFIB surveys demonstrate that overzealous government
535 regulation has ranked in the top 10 of problems facing small
536 businesses since 1991. Reducing the regulatory burden will
537 go a long way toward giving entrepreneurs the confidence they
538 need to expand their workforce in a meaningful way.

539 Recently, the Administration acknowledged that excessive
540 and duplicative regulation has a damaging effect on the
541 American economy. NFIB believes that it has been a long time
542 coming for small business owners to hear the Administration
543 emphasize the harmful effects of overregulation on small
544 business and job creation. We will be watching closely to
545 see if last month's directive leads to real regulatory
546 reform. Moreover, NFIB hopes that the president's order
547 causes agencies to more closely follow the letter and spirit
548 of the Administrative Procedures Act.

549 When agencies do not follow the procedures of the APA,
550 they frequently enact one-size-fits-all rules that are not

551 sensitive to the unique circumstances of small businesses.
552 An important tool in the arsenal to ensure that federal
553 regulations are developed in a way that considers small
554 business impact is the Small Business Regulatory Enforcement
555 and Fairness Act. SBREFA requires federal agencies to
556 analyze the impact of proposed of regulations on small firms
557 and as a result, give small businesses a voice in the federal
558 rule-making process. SBREFA, when followed correctly, can be
559 a valuable instrument for agencies to identify flexible and
560 less burdensome regulatory alternatives.

561 SBREFA and its associated processes, such as the Small
562 Business Advocacy Review Panels, are important ways for
563 agencies to understand how small businesses fundamentally
564 operate, how the regulatory burden disproportionately impacts
565 small business, and how the agency can develop simple and
566 concise guidance materials.

567 While SBREFA itself is a good first step, in order for
568 it to provide the regulatory relief that Congress intended,
569 the agencies must make good faith efforts to comply with it.
570 By following the letter and spirit of SBREFA, agencies like
571 EPA would avoid many of the unnecessary burdens and costs of
572 regulations small businesses experience.

573 Unfortunately for small businesses, however, through the
574 years, a number of EPA regulations have failed to account for

575 the unique characteristics of small business. For example,
576 EPA's lead-based paint renovation, repair, and painting rule
577 has been problematic for small businesses that engage in
578 renovation and construction work. The rule requires small
579 businesses to pay for expensive certification and training
580 for each of their employees. Certification begins at \$304
581 for renovators and \$550 for painting activities or both
582 painting and renovating. Fees could cost thousands of
583 dollars per firm depending on the number of employees they
584 have.

585 Although Superfund was enacted in 1980, NFIB has heard
586 from members with businesses that have been named as a
587 potentially responsible party in a third-party lawsuit. They
588 have been forced to spend thousands of dollars and an
589 excessive amount of time defending themselves when they did
590 nothing wrong or illegal or do not have the records to prove
591 their innocence.

592 When EPA and other agencies follow the procedures for
593 evaluating small business impact of regulations before they
594 are promulgated. It is a win-win for the economy, the
595 public, and small business. Thank you for holding this
596 important hearing. I look forward to your questions.

597 [The prepared statement of Ms. Harned follows:]

598 ***** INSERT 2 *****

|
599 Mr. {Shimkus.} Thank you, Ms. Harned. And for my
600 colleagues, I am going to try to get both opening statements
601 done prior to--they just called votes. I think we can get
602 both in. If I gavel you, it will be for that, for our
603 ability to hear. But that is just for information for my
604 colleagues.

605 Next I would like to recognize Mr. Christopher DeMuth,
606 D.C. Senior--Searle Senior Fellow, American Enterprise
607 Institute. Sir, you have 5 minutes. There is a button
608 there.

|
609 ^STATEMENT OF CHRISTOPHER DEMUTH

610 } Mr. {DeMuth.} Thank you for having me here today, and
611 in light of the time, I will give a brief opening statement.

612 Environmental policy and employment policy are two
613 central concerns. Americans like high levels of clean air
614 and water, and they like high levels of unemployment. These
615 two values sometimes clash, and they are clashing today.

616 To the economists, taking jobs as the metric of the
617 costs of environmental policy is a little bit crude. It is
618 certainly important to the elected representative. It is
619 what the general public cares about, but one could imagine a
620 good environmental rule that had negative employment effects,
621 and one could imagine and sometimes sees bad environmental
622 rules that have positive employment effects.

623 When we regulate, we are buying something, cleaner air
624 and water. Just like everything we buy privately, it has a
625 cost, and the costs can be higher prices, or they can be less
626 good product quality, or they can be lower employment. The
627 question of whether it is a good rule or not is a larger one
628 than the one of employment.

629 In general, environmental regulation has been a great
630 success story for America. It has had very large economic

631 benefits since our first modern statutes were passed in the
632 early 1980s, but we know now that it has been much less cost
633 effective than it could have been. We could have gotten much
634 more environmental improvements for the money we have spent,
635 or we could have gotten the same amount of environmental
636 improvements for vastly less money, or a little bit of both.

637 There is evidence that EPA regulations have been
638 becoming less cost effective over time, following the huge
639 improvements that were gained in the 1970s. There is a wide
640 variation in the effectiveness of different statutes, and we
641 could revise the statutes to get much more environmental
642 gains and much fewer costs of the kind the committee is
643 worried about. In my view, the reasons for the problems that
644 the committee, your subcommittee is focusing on today are
645 two.

646 The first is that environmental--that regulatory costs
647 are off budget. EPA's budget is a tiny sliver of the
648 billions of dollars of costs that its rules impose. But it
649 does not have natural incentives to economize on those costs.
650 They are not costs to the agency. They are costs to the
651 private sector or municipalities or schools or whatever.

652 The costs are relatively insensible to the public. They
653 take the form of higher prices or plants that aren't built or
654 sometimes plants that are shut down, and as a result,

655 agencies often go too far. The regulatory agency will get a
656 90 percent elimination of some risk or pollution level. It
657 will then want to go for another 8 percent, and it will then
658 want to go for 1 and a half percent. And it will keep
659 pushing and pushing. The laws are being made by single
660 purpose agencies operating largely without a budget
661 constraint, and their incentive will be to push until the
662 human cry becomes so great, such as from the Congress that
663 they back off.

664 The second is the very wide delegations that the
665 Congress gives in many environmental statutes so that the
666 really tough choices are made by the agencies. The
667 specialized agency goes back over a century. EPA is a
668 classic example of it. The original idea was expertise, and
669 certainly there are many areas of pollution control that are
670 highly technical and that technicians could handle better
671 than generalist legislators.

672 But as the controversies before this committee today
673 illustrate, these are not merely technical questions. They
674 are highly important political and economic ones, but we have
675 gotten ourselves into a situation where the legislator can
676 vote for clean air and clean water and leave the hard and
677 contentious decision making to the agencies and then
678 criticize after the fact. And the agencies will in this

679 situation often go too far until they are criticized.

680 There are two proposals, as I understand it, before the
681 Congress today for general regulatory reform. They are
682 addressed to the two problems I have identified. Senator
683 Warner is working on a proposal that would put the agencies
684 on a budget of the expenditures that their rules force. It
685 is sort of a pay-go idea where to issue a new regulation, you
686 would have to eliminate some old ones. That is addressed to
687 the problem of unbudgeted, off-budget costs. The so-called
688 Reins Act, introduced by Congressman Jeff Davis and now
689 introduced in the Senate by Senator DeMint, is the proposal
690 for Congress to take back some considerable degree of the
691 discretion it has delegated to the agencies.

692 My testimony says some good things and identifies some
693 problems with both approaches. In my view, neither of them
694 would be as worthwhile as the Congress's returning to many
695 areas of the environmental statutes where it has delegated
696 too much and where much more specific standards could resolve
697 some of the problems that we are facing today. Thank you,
698 sir.

699 [The prepared statement of Mr. DeMuth follows:]

700 ***** INSERT 3 *****

|

701 Mr. {Shimkus.} Thank you, Mr. DeMuth. Now I would like
702 to turn to Ms. Rena Steinzor, president of the Center for
703 Progressive Regulations, University of Maryland School of
704 Law. Welcome, and you are recognized for 5 minutes.

|
705 ^STATEMENT OF RENA STEINZOR

706 } Ms. {Steinzor.} Thank you for the opportunity to
707 testify today on the mistaken belief that environmental
708 protection kills jobs. No matter how many times this fatally
709 flawed argument is repeated, empirical evidence supporting
710 the claim is scant and not credible. Instead, the evidence
711 shows that environmental regulations save lives, preserve
712 irreplaceable natural resources, and not incidentally, create
713 jobs.

714 In fact, if we pull the camera back and look at the
715 economy as a whole, the primary cause of the economic
716 recession and its devastating effect on jobs is
717 underregulation, not overregulation. Everything from the
718 tarp bailouts to the underwater mortgage crisis can be traced
719 back to excessive corporate corner-cutting unchecked by an
720 effective regulatory system.

721 Too often regulatory costs are envisioned as putting
722 money in a pile and setting it on fire. Environmental
723 protections reduce health care costs, keep families intact
724 and productive, let workers stay on the job and preserve
725 resources for future generations. Not incidentally, taking
726 the remedial steps that they require, especially when capital

727 investments are involved, creates jobs. Pollution control
728 equipment must be designed, manufactured, and installed.
729 People must be hired to construct and operate highly
730 engineered landfills that can safely contain hazardous waste
731 and treat sewage and drinking water. Even if we restrict the
732 analysis of regulatory impacts to monetary investments and do
733 not consider the ethics of preserving life, health, and
734 nature, the money that is not spent treating cancers, asthma,
735 or neurological disease can be used in other, more productive
736 ways.

737 Two relevant and closely related examples make this
738 case. As Chairman Emeritus Waxman pointed out, regulations
739 implementing the Clean Air Act saved 164,300 adult lives in
740 2010 and will save 237,000 lives by 2020. Costs of
741 compliance in the year 2020 will be \$65 billion, but the
742 regulatory controls, the benefits of those controls will be
743 \$2 trillion.

744 As we have gotten better at preventing pollutants from
745 going up and out of the stack, we have created other equally
746 pressing problems because these pollutants do not vaporize
747 but rather fall out of the scrubbers into fly and bottom ash.
748 Utilities generate about 145 million tons of coal ash
749 annually, more than three times the amount of hazardous
750 chemical waste.

751 Half of this ash is dumped in so-called surface
752 impoundments which is a euphemism for an unlined pit in the
753 ground. The highly toxic heavy metals present in coal
754 include arsenic, beryllium, chromium, and lead. Burning coal
755 concentrates these contaminants to dangerous levels.

756 In the aftermath of a spill in Kingston, Tennessee of
757 one billion gallons of sludge, coal ash sludge, when an
758 impoundment run by TBA burst, this spill in sheer volume
759 exceeded the Gulf oil spill that transfixed us this summer.
760 EPA began a rule making to compel the safe disposal of coal
761 ash. Electric utilities have made killing this rule a top
762 priority. If President Obama succumbs to this pressure or
763 Congress intervenes, regulatory benefits of \$102 billion over
764 the next several decades could be lost.

765 If anything, our regulatory system is dangerously weak,
766 and Congress should focus on reviving it rather than eroding
767 public protections. The destructive convergence of funding
768 shortfalls, political attacks, and outmoded legal authority
769 have set the stage for ineffective enforcement and
770 unsupervised industry self-regulations. From the Deepwater
771 Horizon spill in the Gulf of Mexico to the disaster at West
772 Virginia's Big Branch Mine with the death toll of 29, the
773 signs of regulatory dysfunction abound.

774 The latest free-for-all against regulation frames a

775 fundamental question for Congress. Will we do what we must
776 to make sure that the environment we leave the next
777 generation of Americans is clean enough for them to live
778 their lives free of the health risks from environmental
779 hazards, or will we squeeze the last penny of monetary profit
780 out of the planet's resources at the cost of leaving behind a
781 scarred landscape, polluted air and water, and enough toxics
782 in the food we eat to pose serious risks to our children and
783 their children?

784 [The prepared statement of Ms. Steinzor follows:]

785 ***** INSERT 4 *****

|
786 Mr. {Shimkus.} Thank you, Ms. Steinzor. Now we will
787 recess the hearing to go cast votes. We have three votes.
788 My colleagues, I would put on the record that 15 minutes
789 after the last vote, we will reconvene. I am not sure how
790 you all figure that out, but that is why you have the staff
791 to help you. But we will come back 15 minutes after the last
792 vote.

793 [Recess.]

794 Mr. {Shimkus.} I would like to call the hearing back.
795 And I want to thank my colleagues for coming back
796 expeditiously. That was a pretty quick turnaround, and now
797 we will go into the 5-minute questions. Most members are
798 still making their way back or trying to grab a sandwich. So
799 I am sure that a few more will show up by the time, but I
800 will recognize myself for 5 minutes.

801 First I would like for Dr. Lutter. You cited a
802 breathtaking statement by EPA in June 10. In fact, I have it
803 right here along with a December statement of EPA analysis.
804 In your statement in which you are quoting the EPA when it
805 put out a proposed rule for combustion byproducts under the
806 Resource Conservation and Recovery Act, the EPA said, and I
807 quote ``the regulatory impact analysis for this proposed rule
808 does not include either qualitative or quantitative estimates

809 of potential effects on economic productivity, economic
810 growth, employment, job creation, or international
811 competitiveness.' ' Do you believe that they--comment on this
812 statement. And do you believe they should put that as part
813 of the analysis?

814 Mr. {Lutter.} First of all, I think they should be
815 commended for full disclosure, but more importantly, I think
816 they should have done more analysis on that. And I think
817 what is interesting is exactly with respect to the employment
818 effects, that employment is clearly recognized under the
819 executive order.

820 As Chris DeMuth has pointed out, employment effects are
821 not necessarily costs, but it is important, especially in
822 this environment, for decision makers to be aware of that and
823 also for the public to be aware of employment effects. And I
824 think a reasonable economic analysis, especially of a
825 regulation of that magnitude, should have taken into account
826 employment effects. I am not a specialist in that rule, but
827 that rule is a rule of several billion dollars.

828 Mr. {Shimkus.} Thank you. Ms. Harned, in--I don't even
829 know--my first term or my second term, I worked with NFIB
830 closely to get liability relief from small businesses and
831 Superfund obligations as being one of the primary responsible
832 parties, then went after the smaller guys who weren't really

833 involved other than they, you know, they used municipal
834 landfill in this case like everyone else. But, of course,
835 two industries used it with hazardous material, and then they
836 got pulled in.

837 It is under your belief that regulations should have an
838 analysis of economic impact on jobs, wouldn't you agree?

839 Ms. {Harned.} Yes, and the Superfund example, I think,
840 is a good one of that and just also the key that NFIB has
841 seen with our members and regulation generally which is when
842 you talk about unintended consequences, typically you are
843 talking about what happens with the regulation to the members
844 I represent, the small business owners I represent. And I
845 don't think when--I would assume when Superfund was enacted,
846 nobody thought that we were going to have members letting us
847 know that they spent \$43,000 to get them out of litigation
848 that they shouldn't even have been in to begin with.

849 And so doing that work on the front end can help prevent
850 those unintended consequences and can help make sure that
851 small business owners have the certainty they need going
852 forward so that they can hire.

853 Mr. {Shimkus.} And we may follow up on a whole separate
854 Superfund hearing because of the cost of litigation versus
855 the cost of recovery. Some of the States do a much better
856 job because they are not tied into the morass of litigation.

857 Dr. DeMuth, do less expensive environment federal
858 regulations necessarily mean less environmental protection?

859 Mr. {DeMuth.} No, it is easy to posit a case where a
860 stricter rule will result in less pollution, but we have a
861 lot of cases where EPA has found ways to reduce the costs of
862 its regulation that have actually increased the
863 effectiveness.

864 One example would be the lead phase-down regulations,
865 which, in addition to--which accelerated the withdrawal of
866 lead additives from the gasoline supply. At the time it put
867 those rules in place, it put in place a trading system so
868 that gasoline refiners had more refining capacity, could
869 substitute lead at a faster rate than those with lesser, and
870 make trades among themselves. That has been a pretty well-
871 studied example of how we reduced the cost of compliance and
872 greatly accelerated the removal of lead from the gasoline
873 supply by harnessing market incentives to the EPA rules.

874 Mr. {Shimkus.} And I think my clock got all messed up,
875 so I don't know how much time, and I want to be respectful of
876 my colleagues. I just want to make sure we put in the record
877 the guidelines for preparing economic analysis by the EPA
878 December 2010, just this statement. I don't want to put the
879 whole--in 9.2.3.3 Impacts on Employment, I quote
880 ``regulatory-induced employment impacts are not in general

881 relevant for a benefit/cost analysis. For most situation,
882 employment impacts should not be included in the formal
883 benefit/cost analysis.' ' And I think that is part of the
884 reason why we are having this hearing because many of us will
885 say it should.

886 And then I would like to now--my time has expired. I
887 would like to recognize my colleague, Mr. Green from Texas.

888 Mr. {Green.} Thank you, Mr. Chairman. Mr. Lutter, your
889 years--you also said that you had worked for--worked at OMB.

890 Mr. {Lutter.} Yes, sir.

891 Mr. {Green.} It seems like I recall having dealt with
892 over the last many years with agencies and their regulations,
893 that oftentimes their regulations are submitted to OMB for
894 whether it be cost/benefit analysis or comment before it
895 actually takes effect. Is that true?

896 Mr. {Lutter.} That has been the case for many years,
897 yes, sir.

898 Mr. {Green.} Okay, do you know if OMB does any
899 cost/benefit analysis that may be separate from the
900 individual agency?

901 Mr. {Lutter.} Well, historically it doesn't. It offers
902 comment on the agency's economic analyses, their benefit/cost
903 analyses and other related analyses, all required by the
904 Executive Order. Those comments are typically taken

905 seriously by the agency that then revises the economic
906 analysis to reflect OMB comments. But there is not a
907 separate OMB analysis except to improve the analysis of the
908 agency.

909 Mr. {Green.} But there is an analysis. There is an
910 oversight of the agency, whether it be EPA or Department of
911 Labor or any other agency, that OMB would actually look at
912 their economic analysis?

913 Mr. {Lutter.} There is oversight. The magnitude of the
914 changes depends on the circumstances.

915 Mr. {Green.} Okay, I appreciate that. Thank you. We
916 have heard from our Republican colleagues that regulations
917 designed to protect the environment and public health may
918 cost too much, and they all have been ignored by the other
919 side of the equation, and costs are not taking action to
920 protect the environment and public health.

921 Last year, the Office of Management Budget estimated the
922 major federal regulations over the last 10 years costs
923 between \$43 and \$55 billion. Ms. Steinzor, does that cost
924 tell the whole story?

925 Ms. {Steinzor.} No, thank you for asking that question.
926 It doesn't because it ignores the benefits of regulation, and
927 that is a very important part of this equation. Regulation
928 does help create jobs because the money is being channeled

929 back into the economy. It is not being destroyed. So that
930 is one of the reasons why we are emphasizing competitive
931 energy policies that will put us ahead in global competition
932 because forcing us to stop using polluting materials will be
933 very helpful.

934 Mr. {Green.} Okay, I appreciate that. Mr. Lutter, do
935 you agree that the balanced discussion of the cost of
936 regulations should include a discussion of the benefits too?

937 Mr. {Lutter.} Yes.

938 Mr. {Green.} Okay, OMB estimated that the economic
939 benefits of major regulations over the last 10 years found
940 tremendous benefits up to \$616 billion. The benefits
941 oftentimes outweigh to cost 3 to 1 and sometimes as much as
942 12 to 1, but these hard numbers don't tell, I think, the
943 human side of the story.

944 And I think Mr. DeMuth talked about the reasonableness
945 of taking lead out of gasoline, and there was a reasonable
946 regulation to be able to trade and to deal with it. I don't
947 think any of us would want to go back to what--because there
948 are a lot of countries in the world who still have lead in
949 their gasoline. But that was probably one that ultimately
950 paid off much better.

951 And frankly it sounds like from your testimony, it was
952 more workable than some of the ones we may see again through

953 lots of different administrations.

954 Ms. Steinzor, it may be tempting for some to rely on a
955 clinical cost estimate to form and justify policy. Do you
956 think it makes sense to rely on analytical tools alone, or do
957 we need to remain cognizant of the other principles of our
958 society, like fairness and justice and equity?

959 Ms. {Steinzor.} Yes, sir, and I actually think that
960 Congress did a terrific job on that when it wrote the Clean
961 Air Act and the Resource Conservation and Recovery Act and
962 the Safe Drinking Water Act and the Toxic Substances Control
963 Act. All of those statutes talk about protecting human
964 health and the environment with an adequate margin of safety.
965 Those are the kind of phrases that you used, and I would
966 just--until you change your instructions to the agencies,
967 that is what they are going to be following.

968 Mr. {Green.} Okay, thank you. One last question in my
969 last 20 seconds. Typically agency rules, industries have the
970 right to go to the courthouse and file, whether it be the
971 NFIB or individual affected industries. Don't you think that
972 is also a check, and I guess let me ask Ms. Harned if the
973 NFIB actually ever filed in court representing a certain part
974 of the industry on some regulation you thought was maybe not
975 proper?

976 Ms. {Harned.} Why, we have done that on several

977 occasions with EPA, Army Corps of Engineers, and I think a
978 couple of other agencies. All of these issues that we were
979 raising were, you know, checking the administration for not
980 following Small Business Regulatory Enforcement and Fairness
981 Act. The good thing is we have that as a tool. The bad news
982 is in, you know, the case where we--the court agreed with us,
983 the appeals court ultimately agreed with us, our members
984 never saw any relief. They just told the agency, you know,
985 don't do it again basically. So the rule never got--

986 Mr. {Green.} Did the agency overrule that--did the
987 court overrule the agency?

988 Ms. {Harned.} They did not provide--they did not tell
989 the agency to go back and fix the problem. They just said
990 don't do it again. So I guess my point is they acknowledged
991 that the agency didn't follow its procedures and that that
992 was in violation of the law, but they did not go back and fix
993 the issue that we were complaining about fundamentally, which
994 was a streamline process that had been taken away from small
995 business owners for permitting.

996 Mr. {Shimkus.} Gentleman's time has expired. I would
997 just weigh in in that there are litigation costs that have to
998 then be borne by the small business to even go through that
999 process.

1000 Mr. {Barton.} Like to yield 5 minutes to my colleague

1001 from Kentucky, Mr. Whitfield.

1002 Mr. {Whitfield.} Thank you, Mr. Chairman, and thank you
1003 all very much for your testimony today. One of the things
1004 about this that bothers me the most is, and some of you
1005 touched on in your testimony, and that is that Congress does
1006 seem to be ceding more and more authority to regulatory
1007 bodies, particularly by writing pieces of legislation that
1008 are very vague. And it lends itself to interpretations by
1009 the way that people want to interpret it.

1010 An example of that, I think Mr. DeMuth pointed this out
1011 in his testimony, was on the Tarp legislation. We thought
1012 they were going to be buying toxic assets with some of these
1013 public funds. Instead, they were making equity investments
1014 in financial firms, and so I am assuming that most of you
1015 would agree with me that Congress may be ceding too much
1016 authority to regulatory bodies. Would you agree with that,
1017 Mr. Lutter?

1018 Mr. {Lutter.} I think it is very helpful for regulatory
1019 bodies to have fairly precise instructions about what is
1020 congressional intent. It facilitates a more technical
1021 decision rather than an unfettered policy one, which is best
1022 left with elected representatives.

1023 Mr. {Whitfield.} What about your, Ms. Harned?

1024 Ms. {Harned.} Yeah, I think this is a continuing

1025 concern, and I do agree, you know, the health care law is a
1026 good example of this as well that we are seeing right now
1027 that is impacting our members. And it is really the agencies
1028 that are going to--

1029 Mr. {Whitfield.} Might I also say that we didn't have
1030 an opportunity to offer one amendment on the floor on that
1031 bill. Mr. DeMuth, do you have a--

1032 Mr. {DeMuth.} Yes, I agree, sir. If you look across
1033 the range of EPA's organic statutes, I would say that those
1034 that have been the most contentious and have lead to the
1035 greatest problems have been those that given them very, very
1036 wide discretion.

1037 And the ones that have been most successful, I think the
1038 classic case is the automobile emissions standards. They
1039 were basically written on the hill, and they have been very
1040 effective. There hasn't been that much litigation.

1041 Mr. {Whitfield.} Right.

1042 Mr. {DeMuth.} Everybody respects them. Congress spoke.

1043 Mr. {Whitfield.} Right.

1044 Mr. {DeMuth.} And it reflected--I mean they were
1045 controversial at the time. The automobile manufacturers
1046 didn't like them, but Congress made a considered decision
1047 that this was something that was important. And I think that
1048 applying that approach much more broadly across RICRA, TASKA,

1049 the Superfund Program, and the Clean Water and Air Acts would
1050 be very beneficial.

1051 Mr. {Whitfield.} What about your, Ms. Steinzor? Do you
1052 agree with my statement?

1053 Ms. {Steinzor.} I agree that the laws should be
1054 specific. I actually would observe that the environmental
1055 laws are pretty specific. I worked for the committee many
1056 years ago, and we rewrote Superfund. And I actually have
1057 counted the pages. It went from 50 pages to 400 pages. So
1058 very, very specific instructions.

1059 Mr. {Whitfield.} Yeah. Well, you know, I think most
1060 people certainly in my district agree and feel very strongly
1061 that they are losing jobs because of regulations. We had a
1062 plant close last week, and they specifically--the owner of
1063 the plant said I am closing this because of environmental
1064 regulations, and 200 jobs were lost right there.

1065 Now, one of the things that I am totally puzzled about
1066 is we look at these formulas about benefits versus cost,
1067 benefits versus cost. And, Ms. Steinzor, in your testimony,
1068 you talk about the benefits, for example, of the Clean Air
1069 Act. By 2020, the benefits will be \$2 trillion annually.
1070 Now, Mr. DeMuth, you and Mr. Ginsberg wrote a law journal
1071 article one time at the University of Michigan in which you
1072 looked at formulas used to determine benefits, cost/benefit

1073 analysis, and you were, I believe, critical of some of these
1074 formulas being used. Would you explain briefly why? I mean
1075 it is so frustrating when somebody says the benefit is too--I
1076 mean you say that a life lost would be \$84,000 or whatever.
1077 Could you just comment briefly on the formulas used to
1078 calculate these benefits?

1079 Mr. {DeMuth.} I think that the approaches to
1080 calculating benefits have become more specific over time and
1081 better, but that they involve enormously large room for
1082 subjective judgment.

1083 Professor Steinzor and also Administrative Jackson last
1084 week cited a figure of 650,000 lives saved per year from EPA
1085 regulations. I regard that as preposterous, intellectually
1086 embarrassing. They think it is reasonable. What they do is
1087 they take the amount of pollution in America in 1970, and
1088 they take GDP in 1970 and they take GDP today, and they
1089 multiple it by the pollution in 1970. Now, we probably would
1090 be saving that many lives, but you know what? We wouldn't be
1091 able to see each other if pollution had increased that much.
1092 And then they take credit for all of the difference.

1093 So you can see a lot of very poor procedures, and this
1094 is the Administrative EPA talking before an important
1095 congressional committee. So you can see that the opportunity
1096 for exaggeration is still immense.

1097 Mr. {Shimkus.} Gentleman's time has expired. The
1098 ranking member asked if we could allow Ms. Steinzor to,
1099 because some of her testimony was questioned, a brief
1100 response. So I am going to ask unanimous consent that we
1101 allow Ms. Steinzor to respond for a minute. Without
1102 objection. Ms. Steinzor.

1103 Ms. {Steinzor.} Thank you. The estimates of benefits
1104 that are made under things like the Clean Air Act and other
1105 statutes are very low because we assume, for example, that if
1106 a child is brought to an emergency room with an asthma
1107 attack, that that attack is worth \$363. I don't even think
1108 they let you through the door or give you a plastic ID
1109 bracelet for \$363. And the cost of a nonfatal heart attack
1110 in a person under the age of 24 is \$83,000. So unless you
1111 actually die of your heart attack, that is all the amount of
1112 money we think it is worth to prevent having you exposed to
1113 air pollution that can make your heart disease worse or give
1114 you--worsen your asthma.

1115 So these benefits--I would disagree with Mr. DeMuth.
1116 These benefits are likely to be much, much higher than what
1117 EPA says they are.

1118 Mr. {Shimkus.} And thank you, ma'am. Now, I would like
1119 to recognize Congressman Joe Pitts from Pittsville for 5
1120 minutes. Pennsylvania.

1121 Mr. {Pitts.} Thank you, Mr. Chairman. Mr. DeMuth, in
1122 your written testimony, you state ``on the cost side, these
1123 include higher prices, the loss of many good things outside
1124 the realms of environmental quality and employment such as
1125 the quality and reliability of some products and services.''

1126 Could you please give us some examples of quality and
1127 reliability losses? And does this affect the ability of
1128 businesses to access capital to either comply with more
1129 burdensome requirements or to simultaneously comply and
1130 higher expand their businesses?

1131 Mr. {DeMuth.} The costs could certainly take the form
1132 of those you suggest. I had in mind more kind of direct and
1133 obvious things. Sometimes installing pollution control gear
1134 simply raises cost. Sometimes it lowers the utility of a
1135 product. The hardware that we use to control pollution on
1136 cars degrades the performance of the car. We have all gotten
1137 used to it, and pollution has gone down enormously. But the
1138 performance of cars in terms of miles per gallon is less than
1139 it would have been otherwise.

1140 A good example for people in the Washington area,
1141 especially those that have experienced power outages in the
1142 past couple of weeks, is the reliability of our power system.
1143 The Clean Air Act through--I mean people on the staff will--
1144 who are down in the weeds will understand this. The Clean

1145 Air Act discourages plant modernization in the electric power
1146 business because of a curious anomaly in the Act where if you
1147 try to--you may have a lot of good reasons for renovating
1148 your plant. If you renovate the plant, it will reduce
1149 pollution and make the power supply much more reliable. But
1150 you will trip yourself into so much more stringent
1151 regulations.

1152 And so power companies tend to defer and delay, and EPA
1153 has been trying to fix this for 20 years. It is something
1154 that I would recommend to legislators to fix. It hasn't been
1155 able to do it, and I think that the effect on keeping our
1156 power grid up to date through keeping the generating
1157 facilities up to date has been very substantial.

1158 Mr. {Pitts.} Thank you. Ms. Harned, you say that small
1159 businesses spend 36 percent more per employee to comply with
1160 environmental regulations than larger businesses, while small
1161 businesses provide two-thirds of the new jobs. Does this
1162 mean that the Small Business Regulatory Enforcement and
1163 Fairness Act simply does not work?

1164 Ms. {Harned.} Well, it works when it is followed again
1165 the letter and the spirit of it. What we have noticed is
1166 when the Act was first introduced, there was more of blatant
1167 noncompliance, I think, than you would find today 20 years
1168 later, though that still occurs. I think what you see though

1169 is ways to do the end run around it, to maybe not certify a
1170 rule that otherwise would be certified to have a more in-
1171 depth small business analysis.

1172 And our view of the world is look, once these regs are
1173 on the books, they are on the books. And getting them off
1174 has proven to be very difficult if not impossible. Why not
1175 do your homework on the front end and make sure that you use
1176 the tools that are given to you through the law to solicit
1177 small business impact and really understand how a law--how a
1178 regulation is going to work before implementing it? I know
1179 it takes time on the front end, but it is much better to do
1180 it that way than have to clean up a mess later like you saw
1181 in Superfund and other things like that.

1182 Mr. {Pitts.} Thank you. Mr. Lutter, finally, do you
1183 believe that the creation of new enforcement and compliance
1184 jobs related to the issuance of a new rule should be given
1185 substantial weight in the net jobs calculation?

1186 Mr. {Lutter.} I have concerns about it, net jobs
1187 calculations, even though I understand its appeal to many
1188 parties. I have tried to articulate a preference for a
1189 conventional calculation of benefits being shown to justify
1190 cost as a basis for issuing a regulation.

1191 I think, having said that, there is a variety of effects
1192 on employment that are also legitimate to consider in that

1193 benefit/cost calculation. And my survey indicates that some
1194 analyses for some regs are not doing that. I think with
1195 respect to employment--or, I am sorry, enforcement jobs
1196 themselves, if there is an enforcement job in the regulatory
1197 agency and that function is now required to ensure compliance
1198 with the rule, then that job is a cost of the rule and ought
1199 be considered as such.

1200 Similarly, if there is an enforcement compliance officer
1201 in the regulated industry that now is not otherwise hired and
1202 that person's sole function is to ensure that they are
1203 complying with red tape, that is also a cost.

1204 Mr. {Pitts.} Thank you.

1205 Mr. {Shimkus.} Gentleman's time has expired. The chair
1206 now recognizes the gentlelady from California, Ms. Capps.

1207 Mrs. {Capps.} Thank you, Mr. Chairman. I would like to
1208 turn to Mr. DeMuth. Thank you for the testimony, each of
1209 you. Mr. DeMuth, your testimony suggests that environmental
1210 regulations are no longer as cost effective as they once were
1211 because the marginal benefits have decreased. Essentially
1212 you are suggesting we have kind of already largely solved the
1213 problem of pollution. I wish that were true. The Centers
1214 for Disease Control has found that chemical exposures in this
1215 country are everywhere, and we see the public health impacts
1216 of those exposures.

1217 According to the CDC, 90 percent of people tested have
1218 BPA in their bodies. Nearly every person tested had toxic
1219 fire retardants in their blood, and autism rates are rising
1220 at an alarming pace. California, for example, where we have
1221 a lot of pollution, autism rates have grown sevenfold in
1222 recent years.

1223 Last year, the president's cancer panel released a
1224 report focused on the link between environmental exposures
1225 and cancer. As they noted in 2009, one and a half million
1226 Americans were diagnosed with cancer, and 562,000 died from
1227 the disease. The panel concluded that reform of the Toxic
1228 Substances Control Act is--and they laid quotes around this--
1229 ``critically needed.''

1230 Mr. DeMuth, are these experts and scientists wrong to
1231 say that we need to be doing more to address environmental
1232 exposures to harmful chemicals?

1233 Mr. {DeMuth.} I don't think they are wrong, and I don't
1234 think you are wrong. And I am sorry that--I think you may
1235 have misinterpreted what I said. I said that I thought that
1236 EPA regulations were becoming less cost effective over time.
1237 I didn't say there was no pollution left. I didn't say there
1238 was nothing left to do.

1239 To take your CDC case, one of the pollutants, tox
1240 pollutants people have been most concerned about has been

1241 mercury. The CDC measures of mercury, for example, women 15
1242 to 40, their conventional categories, the measured amounts
1243 have been below their reference rates since about 2000 and--

1244 Mrs. {Capps.} I don't want to cut you off, but I want
1245 to move on because I have other questions. But we will
1246 agree--

1247 Mr. {DeMuth.} If you look at mercury regulations that
1248 EPA is dealing with, the amount of additional mercury being
1249 subtracted is extraordinarily small at high costs, and that
1250 compares--

1251 Mrs. {Capps.} Well, that is not the same with every
1252 kind of chemical though, but I--

1253 Mr. {DeMuth.} No, that is an example of what I had--

1254 Mrs. {Capps.} That is what you were driving at?

1255 Mr. {DeMuth.} Yeah.

1256 Mrs. {Capps.} Okay, but you do agree that we need to do
1257 more, we need to be doing more to address environmental
1258 exposures--

1259 Mr. {DeMuth.} Of course.

1260 Mrs. {Capps.} --to harmful chemicals. Do you agree
1261 that we should reform TSKA, for example?

1262 Mr. {DeMuth.} I think that would be highly worthwhile.

1263 Mrs. {Capps.} Okay, so I can see that--

1264 Mr. {DeMuth.} We might, you know, I am not--what I

1265 would want to do with the Act, you know, I am not sure, and I
1266 don't know what the various proposals are.

1267 Mrs. {Capps.} Let me turn then to Ms. Steinzor, and I
1268 appreciate very much--

1269 Mr. {DeMuth.} Okay.

1270 Mrs. {Capps.} --your answering my question.

1271 Mr. {DeMuth.} Thank you.

1272 Mrs. {Capps.} Ms. Steinzor, what do you think? Do you
1273 think we need to be doing more to address environmental
1274 exposures to harmful chemicals?

1275 Ms. {Steinzor.} Yes, we need to be doing a lot more,
1276 and to use your example of the Toxic Substances Control Act,
1277 we have--many people don't realize this, but we don't test
1278 chemicals before they are put on the market in this country
1279 and--

1280 Mrs. {Capps.} You wait and see what happens.

1281 Ms. {Steinzor.} We wait and see what happens, and
1282 people are basically human guinea pigs when that goes on.
1283 And a very big need to revise TSKA in that way.

1284 Mrs. {Capps.} Well, some of my colleagues, we hear a
1285 lot from them about the failures of the current regulatory
1286 system. They suggest that the failure is a result of
1287 staffers at the agencies running amok. I don't think that is
1288 the case, but instead of pointing fingers at staffers in

1289 agencies, there might be some other reasons. What are some
1290 of the examples that you would give to why we are not
1291 continuing in the path the way we should?

1292 Ms. {Steinzor.} The agencies are drastically
1293 underfunded. EPA hasn't had a raise in constant dollars in
1294 its funding since 1984, and you have passed a series of laws
1295 thousands of pages long since that time that give them all
1296 sorts of new responsibilities. And they just simply can't
1297 keep up with the very important mandates that Congress has
1298 given them.

1299 Mrs. {Capps.} I appreciate that. You know, Mr.
1300 Chairman, I wish we lived in a world where EPA had worked
1301 itself out of a job. Someday perhaps we will be able to do
1302 that, but cancer patients and parents of autistic children
1303 nationwide know that we are not there yet. Scientists
1304 nationwide know that to achieve the goal of getting rid of
1305 pollution, we are going to need to strengthen the
1306 Environmental Protection Agency's authority, not take away
1307 essential EPA tools. And with that, I will yield back.

1308 Mr. {Shimkus.} I thank the gentlelady, and I would like
1309 to yield to the gentleman, Congressman Bass, for 5 minutes.

1310 Mr. {Bass.} Thank you very much, Mr. Chairman, and I am
1311 most apologetic for coming in late. If there are any
1312 questions that have already been addressed, you just say so,

1313 and I can take a look at it in the record. I have two
1314 questions. Dr. Lutter, you make a good case in your
1315 testimony that analysis of regulatory action should indicate
1316 that the action will have clear net benefits and no, if you
1317 will, unnecessary, underlined, burdens. And you argue that
1318 this discipline will promote public understanding and
1319 accountability for legislators.

1320 Will the result of that kind of policy be fewer
1321 regulations or better regulations in your opinion, fewer new
1322 regulations?

1323 Mr. {Lutter.} Thank you. I think it is--the result
1324 will be an improvement in regulation, which would be measured
1325 both by the quantity and the quality. I think of this really
1326 as analysis has two functions to perform.

1327 One is it has a function to let the regulators at the
1328 regulatory agency and the White House know about the intended
1329 effects so that they know when they are regulating what is
1330 the best estimates available to them about the consequences
1331 of their regulatory decision, surely for public health and
1332 safety, also for cost. But especially in this constrained
1333 environment, on unemployment. I think that is something that
1334 is fair for them to be informed of.

1335 But also with respect to public accountability. I think
1336 then the question is is there information being given to

1337 Congress and to the public about what the government knows
1338 about the consequences of its regulatory decisions and
1339 provided that the analysis is carefully done to meet credible
1340 standards. And I think the public accountability function
1341 can be helped by more credible analysis of regs.

1342 Mr. {Bass.} All right, Dr. DeMuth, do you think that
1343 the Administrative Procedures Act and regulatory reviews are
1344 being used in assessing the true needs and appropriate
1345 burdens for federal regulations and making appropriate
1346 adjustments when required?

1347 Mr. {DeMuth.} Congressman, I am afraid I don't have a
1348 very helpful answer to that. The Administrative Procedure
1349 Act basically requires the agencies to make decisions that
1350 comport with the statutes and to follow certain procedures
1351 for notice and comment. And then it has a fallback saying
1352 that decisions can't be arbitrary or capricious. I think
1353 that is basically a pretty good structure.

1354 There is a lot of talk in Washington these days about
1355 the quite surprising growth in the use of a technique called
1356 interim final rules. A lot of agency rules in the past year,
1357 I think because the agencies are swamped in part because
1358 Congress gave them a lot of new business to do in some big
1359 statutes last year, and they are resulting to interim final
1360 where they just announce what they are going to do. There is

1361 no notice and comment at all.

1362 That was intended as sort of an emergency procedure
1363 where here is our interim final, but now we are going to have
1364 a rule-making proceeding. But in a lot of cases, it appears
1365 that the interim final rules are really going to be the final
1366 final rules. So that, I think, suggests some problems with
1367 the APA that might be addressed.

1368 Mr. {Bass.} Do you think that there was any significant
1369 discretion on the part of the agencies in the amount of rule
1370 making, understanding that the Congress may have burdened
1371 them with new requirements, but could they have taken a
1372 different route that might have resulted in a lighter
1373 regulatory burden?

1374 Mr. {DeMuth.} Yes, sir. That is a pervasive effect, a
1375 pervasive phenomenon. There are lots of statutes in the
1376 environmental area and many others as well that give the
1377 agencies very, very wide discretion in making hard tradeoffs
1378 between various goods and the single purpose agency, whether
1379 it is the EPA or the FDA or whatever, is always going to
1380 favor the goods that you all in Congress instructed it to
1381 promote. That is its job, but when you give it a lot of
1382 discretion, you can expect the agency to push and sometimes
1383 go too far.

1384 Mr. {Bass.} Thank you, Mr. Chairman.

1385 Mr. {Shimkus.} I thank the gentleman. The chair now
1386 recognizes the gentleman from Ohio, Mr. Latta, for 5 minutes.

1387 Mr. {Latta.} Thank you, Mr. Chairman. Appreciate the
1388 time and thanks to our panelists for being with us today. A
1389 lot of questions and just kind of get a little background of
1390 where I am coming from. I represent the largest
1391 manufacturing district in the State of Ohio, 2-1/2 years ago
1392 was the ninth largest in Congress. And I am not going to
1393 tell you where we are today and what has happened.

1394 But, you know, no one out there in my district or across
1395 Ohio or across this country doesn't want to say that we don't
1396 want clean air or clean water. But, you know, if I could
1397 start with Mr. DeMuth, going back to page three of your
1398 testimony, which I found interesting. Again you are talking
1399 about your percentages that are out there and where things
1400 have gone. And you were talking about the '70s and the '80s.
1401 You said in both cases, the single-purpose agency having
1402 achieved say a 90-percent reduction in risk or pollution will
1403 then wish to tackle another 8 percent and then on.

1404 And so, you know, I would just like to start with that
1405 because I have communities in my district that draw water
1406 from--we have a lot of rivers. But EPA standards are getting
1407 to such a point that the parent companies of these plants
1408 that are located in these communities are saying if your cost

1409 goes up anymore, we are going to pull you. And so I found
1410 your testimony interesting because that is going on in our
1411 area right now.

1412 And I just wondered if you could comment on what you
1413 have seen also nationally.

1414 Mr. {DeMuth.} What did you say I could comment on?

1415 Mr. {Latta.} If you--nationally. If you could comment
1416 on that, if you have seen other statistics nationally on
1417 that.

1418 Mr. {DeMuth.} I wish I could be more helpful. I mean
1419 there are a lot of--there is a lot of evidence such as the
1420 kind that you cite. When I was working on these matters in
1421 the government, I would see a lot of them. I think that
1422 there are many EPA rules that are very sensible and well
1423 crafted, but the general tendency is to push much too hard.

1424 And it is a--one of the best things that has been
1425 written on the subject is by Justice Breyer of the Supreme
1426 Court when he was an academic. He wrote a book called
1427 ``Squaring the Vicious Circle'' and he pointed out that
1428 single purpose expert agencies, without a budget on
1429 compliance costs, will try to go all the way to 100 percent.
1430 And as the costs get higher and higher, you get more cases
1431 such as those in your district. And they will essentially
1432 push until they get somebody pushing back, which is what is

1433 happening today.

1434 Mr. {Latta.} Thank you. Pardon me. Ms. Harned, Ms.
1435 Steinzor said a little bit ago that regulations create jobs.
1436 Do you agree with that?

1437 Ms. {Harned.} That has not been the experience of our
1438 members. They consistently cite regulations as one of the
1439 reasons, over the last 26 months, in fact, one of the top
1440 three reasons they are not hiring in this economy.

1441 Mr. {Latta.} Let me ask you this. Have you heard of
1442 any of your other NFIB members out there have situations like
1443 this? Again when I am home, I go through maybe two to three
1444 to four plants a day, and they are either very small or very
1445 large. But I was in one place. It was kind of disconcerting
1446 because the gentleman said that, after I heard him talking
1447 about some situation here with the EPA, I said well what was
1448 it that the EPA said when you talked to them? He said well,
1449 here is the problem. He said he told him that if he had to
1450 implement all these regulations, that they are going to put
1451 him out of business. And the comment back to him from the
1452 regulator was we don't care.

1453 Ms. {Harned.} Right, and I feel like that is very much
1454 the sense that we get from our members, from the regulators,
1455 and also the concern that it is--they are always--the concern
1456 that it is a gotcha mentality on enforcement and that you

1457 really can't win. If they come in your place of business,
1458 there is so much on the books, they are bound to find
1459 something. And that really is not what helps public health
1460 and safety anyway. You want be having more of a partnership
1461 approach.

1462 This worked really well, truthfully, and the last
1463 probably 9 years with OSHA where they were really working
1464 with small business owners to help them understand their
1465 obligations. Compliance assistance was very much a focus at
1466 that agency from 2000 to 2008, and as a result, you saw
1467 injuries go down. I mean we have proof to show that you can
1468 get positive benefits for the public by having more of a
1469 cooperative approach with the regulators instead of a gotcha
1470 mentality.

1471 Mr. {Latta.} Thank you. And, Mr. Lutter, if I could--
1472 on page seven of your testimony, I found something also
1473 interesting because I tell you with my district, I see it all
1474 the time. You cited a study from a Michael Greenstone. He
1475 is now with MIT talking about the question of comparing
1476 counties that were and were not in attainment under the Clean
1477 Air Act. And I know of a situation in my district where
1478 contiguous counties to a larger county were all placed on a
1479 nonattainment because of the one county being just--
1480 artificial line is how they drew it, and everybody fell into

1481 it, even though the other counties were not in the situation
1482 of being nonattainment.

1483 But I know that you say on page eight then if your
1484 testimony that these estimates probably overstate the
1485 national loss of activity due to nonattainment designations.
1486 But I can see that jobs are being moved because of this
1487 nonattainment. And just wondered if you could just comment
1488 again on that.

1489 Mr. {Lutter.} Well, this is actually a very interesting
1490 study that you cite precisely because it is one of the most
1491 careful, comprehensive authoritative. Its ``Journal of
1492 Political Economy'' reviews of what in many ways is a
1493 cornerstone of the Clean Air Act. And though that has been
1494 extensively studied, one question is just retrospectively, if
1495 you look at the nonattainment versus the attainment counties,
1496 what does it do? And the answer is you get these large
1497 adverse effects on employment in the nonattainment counties.

1498 The author, quite appropriately, says well, there is
1499 this risk of a certain amount of shifting of jobs to the
1500 attainment counties, which could be interpreted as the result
1501 of two things. One is the regulations are less onerous
1502 there, and the other one, of course, is the air quality is
1503 better so maybe people are moving for that reason as well.

1504 What I think is interesting is the extent to which that

1505 analysis may speak to current dilemmas because, as I pointed
1506 out, one of the regulations that I looked at is also the
1507 Ozone National Ambient Air Quality Standard, and that has
1508 been repeatedly--I know it is not within the jurisdiction of
1509 this committee, but it has been repeatedly revised. And it
1510 is interesting how, as an illustration, as Chris DeMuth
1511 pointed, it points to more and more increasingly stringent
1512 options being adopted, considered and adopted by the
1513 regulatory agency even at the detriment of cost and
1514 compliance costs.

1515 Mr. {Latta.} Thank you, Mr. Chairman. Yield back.

1516 Mr. {Shimkus.} The gentleman's time has expired. Chair
1517 recognizes the gentleman from Mississippi, Mr. Harper, for 5
1518 minutes.

1519 Mr. {Harper.} Thank you, Mr. Chairman, and I appreciate
1520 each of you being here and shedding some light on this. And
1521 I can only tell you that I can't find a business or an
1522 industry in my district that thinks that they are under-
1523 regulated. And so we have to deal with those issues on a
1524 regular basis, and trying to find that proper balance is
1525 something that I hope we can do in this Congress.

1526 And the question I would have for you, Mr. DeMuth, is
1527 are you concerned about proposing the use of performance
1528 standards, that you are actually encouraging the federal

1529 government to dictate the means of production or investment
1530 in manufacturing in this country?

1531 Mr. {DeMuth.} A performance standard, in my
1532 understanding, is a standard that says this is the amount of
1533 pollution we are going to permit. And I generally think that
1534 that is superior to a technology standard that says this is
1535 the way you are going to manufacture tires or this is, you
1536 know. So in general, I think that performance standards
1537 involve less dictation to businesses about how they will meet
1538 pollution obligations and have more flexibility.

1539 There are cases where I think that the advantages of
1540 performance standards outweigh this, but in many, many more
1541 cases than we permit today, I would think that moving to
1542 performance standards would be a step in the right direction.

1543 Mr. {Harper.} When you are looking at the environment
1544 standards or statutes that are in place, what comes to the
1545 top of your list of what most needs to be reformed? If you
1546 had to identify a couple that you think are definitely in
1547 need.

1548 Mr. {DeMuth.} I would say in the jurisdiction of this
1549 committee, the RIKRA and Superfund statutes, I think that
1550 they have been--they have produced some good--RIKRA has
1551 definitely produced some good things. Together, I think they
1552 have been woefully inefficient. I think probably the worst

1553 environmental statute is outside of your jurisdiction, and
1554 that is the National Ambient Air Quality Standards portion of
1555 the Clean Air Act with all of the State implementation plans.

1556 There is an enormous amount of waste and inefficiency
1557 simply in the administration of this program. And if you
1558 compare it to automobile pollution standards, what Congress
1559 has done directly in the acid rain and ozone standards, where
1560 we had Congress itself making a decision, reflecting the
1561 consensus of our representatives as to what the standard was
1562 going to be and how fast we were going to pursue it, I think
1563 those have been much more effective.

1564 And if you go back to 1970, you can see why people were
1565 interested in this State implementation plan approach, but it
1566 has become a bureaucratic quagmire, and it is not doing
1567 anything good for the economy or the environment. It could
1568 be doing much more.

1569 Mr. {Harper.} And I would love to have your take on how
1570 you view the large federal deficits and amount of federal
1571 spending, what impact you are seeing that have in your view
1572 on businesses in this country.

1573 Mr. {DeMuth.} I think that it is a powerful suppressant
1574 to business investment because it creates the idea that our
1575 national government itself will be at risk, that our
1576 borrowing will be downgraded. These are things that a lot of

1577 businesspeople take seriously, and it leaves them, like
1578 consumers, wondering about our future and making them much
1579 less likely to make large capital investments.

1580 Mr. {Harper.} Thank you. Yield back.

1581 Mr. {Shimkus.} Gentleman yields back his time. The
1582 chair recognizes the gentleman from Louisiana, Mr. Cassidy,
1583 for 5 minutes.

1584 Mr. {Cassidy.} Ms. Steinzor, am I pronouncing that
1585 correctly? I came in late.

1586 Ms. {Steinzor.} Yeah.

1587 Mr. {Cassidy.} You know a heck of a lot more than I do
1588 about this, and I am actually going to go just for--to
1589 explore the theoretical, which is not under our jurisdiction.
1590 I am going to speak about Clean Air Act, but I am just
1591 interested in picking your brain because I kind of agree with
1592 these folks. So I learn, if you will, from you whom I may
1593 agree or disagree.

1594 Clearly the elephant in the room of our economy is
1595 whether or not CO2 and greenhouse gases are going to be
1596 regulated. An incredible concern in my district from Baton
1597 Rouge, Louisiana. Lots of people with good jobs and good
1598 benefits are employed in these industries.

1599 As I read about the cap-and-trade bill, one thing that
1600 they said was almost inevitable, there would be carbon

1601 leakage. People would just move their carbon-intensive
1602 enterprises to another country, losing the jobs, just
1603 shipping the jobs overseas but still emitting the greenhouse
1604 gas.

1605 Just accepting for the sake of argument that this is a
1606 concern, you know, and then I think I recently saw a big
1607 steel plant out of Spain who relocated, just shut down. When
1608 I asked why, they said well, heck, they just sold their
1609 credits. It was easier for them to move their carbon
1610 intensive or energy intensive enterprise elsewhere than to
1611 put up with the regulations. And I am thinking as I look at
1612 Spain's fiscal mess, wow, maybe this contributed to the
1613 fiscal mess.

1614 So in the theoretical, where a regulation or a
1615 regulatory environment comes in and says thou shalt, and the
1616 easiest way to comply is to say adios and to move down to
1617 some place where they speak Spanish or Chinese or you name
1618 it, regulation doesn't kill jobs in that regard? You follow
1619 what I am saying? I mean it just seems like there is this
1620 exodus of jobs related to this sort of regulation.

1621 So again it is not under our jurisdiction, but I figured
1622 that could be the basis of kind of, if you will, a
1623 theoretical conversation.

1624 Ms. {Steinzor.} I would point to perhaps the most

1625 devastating event in your State, which would be the Deepwater
1626 Horizon spill.

1627 Mr. {Cassidy.} Now, if I may, I think you point out
1628 correctly that the problems there is not the absence of
1629 regulation but a dysfunctional regulatory environment. And I
1630 would also point out that ongoing, we have a job moratorium
1631 now because they can't, although with resources, they can't
1632 pull their regulatory environment together. So a lot of
1633 people who depend upon these jobs for their mortgages can't
1634 get work.

1635 I am sorry. That just touches a button in me because I
1636 know so many families that are connected by this kind of
1637 heavy hand of government destroying their ability to work and
1638 support their families. I am sorry. Continue.

1639 Ms. {Steinzor.} Well, I have a lot of compassion for
1640 those people too, and I would suggest to you that the entity
1641 that cost them the jobs was British Petroleum in cooperation
1642 with Transocean and Halliburton.

1643 Mr. {Cassidy.} Now, that is to imply though that the
1644 other actors out there, Chevron, Exxon, Mobile, you name it,
1645 are doing the same sort of bad behavior as BP. There is no
1646 evidence for that. Indeed the National Academy of Engineers
1647 said that the problems of the Macando Well were identifiable
1648 and fixable and that the moratorium would not appreciably

1649 increase safety. So we have thousands of people out of work
1650 because one bad actor is--that is being ascribed to everybody
1651 else.

1652 Ms. {Steinzor.} Well, I think the moratorium was
1653 lifted, but I think what my point was, and the oil spill
1654 commission certainly concluded this, that there are systemic
1655 problems throughout the whole industry, but if we were to
1656 just look at British Petroleum in isolation, it had profits
1657 of \$19 and \$17 billion.

1658 Mr. {Cassidy.} I am not putting--now, believe me, we
1659 can agree. I knew we would have common ground. We can put
1660 BP on the dock, and we are going to both be in agreement. My
1661 concern isn't about--

1662 Ms. {Steinzor.} But that is--

1663 Mr. {Cassidy.} Yeah, BP as a bad actor, about the fact
1664 that good actors are now being penalized because the
1665 regulatory environment can't--and people are losing jobs. I
1666 mean job--they got rigs moving to the coast of Africa with
1667 the jobs that go with it. Because the regulatory will not
1668 get off bottom center to allow good actors to again begin to
1669 work.

1670 Now, to me that just seems a total kind of tyranny of
1671 the regulator.

1672 Ms. {Steinzor.} Well, again we have 55 inspectors in

1673 the Gulf of Mexico to inspect 3,500 oil rigs and production
1674 platforms. So I am not going to lay a bet that there won't
1675 be another spill, but if we look at countries that don't have
1676 any regulation, they do pay an incredible price. I mean
1677 there is an article in the British medical journal ``The
1678 Lancet''--

1679 Mr. {Cassidy.} I am not at all--excuse me. Just
1680 because I have limited time. I am not saying don't regulate.
1681 I am just saying the tyranny of the regulator right now who
1682 always shifts it so that you can never quite get your permit.
1683 And the people who depend upon those jobs don't have their
1684 jobs with the salary and the benefits.

1685 Ms. {Steinzor.} I guess what I am trying to say is that
1686 I don't think those 55 inspectors are feeling particularly
1687 tyrannical and that the big economic cost to Louisiana was
1688 unregulated industry that really was careless, negligent, was
1689 making outrageous profits and squandered the economic and
1690 natural health of the whole Louisiana coast.

1691 Mr. {Cassidy.} If I may say, I would say it was not--it
1692 was a single actor, BP. If I may finish. It was a single
1693 actor called BP, and again as according to the president's
1694 own handpicked council of engineers, this was not a--the
1695 problems were fixable and definite. And lastly, it is not
1696 the 55 frankly. It is Brownwich and Salazar. So at some

1697 point, they become the translator of someone who decides to
1698 otherwise squash an industry. Thank you.

1699 Mr. {Shimkus.} Gentleman's time has expired. We want
1700 to thank the first panel for their testimony. You may get
1701 questions in writing from members as a follow-up. We would
1702 ask if you do, to respond, and we do appreciate your
1703 testimony. Since I had to start this thing so quick so we
1704 could get done, the way this hearing was set up was to talk
1705 to the economists big picture. Second panel deals with case
1706 studies from individuals. So that is how this was set up,
1707 and we appreciate you coming.

1708 And now we will ask for the second panel to be seated.
1709 We would like to thank the second panel for joining us. What
1710 I will do, because I have time, I will introduce you all at
1711 one time, and then we will start from my right to left for
1712 the 5-minute testimonies.

1713 Joining us on the second panel will be Leonard F.
1714 Hopkins, fuel procurement and reliance manager from Southern
1715 Illinois Power Cooperative, serves portions of my
1716 congressional district, which I said in my opening statement.
1717 And we are happy to have you here.

1718 Mr. Joseph Baird is a partner in Baird Hanson Limited
1719 Liability Partnership. Ms. Marcie Kinter, vice-president,
1720 Government and Business Information, Specialty Graphic

1721 Imaging Association. We have--not in order--Wendy K. Neu,
1722 executive vice-president, Hugo Neu Corporation and
1723 chairperson of We Recycle. And last but not least the
1724 Honorable Vince Ryan, Harris County attorney.

1725 Welcome, and we will start with Mr. Hopkins with your 5-
1726 minute testimony. Again your entire testimony will be
1727 submitted for the record. Executive summary within the 5
1728 minutes as close as possible. And welcome.

|
1729 ^STATEMENTS OF LEONARD F. HOPKINS, FUEL PROCUREMENT AND
1730 RELIANCE MANAGER, SOUTHERN ILLINOIS POWER COOPERATIVE; JOSEPH
1731 BAIRD, PARTNER, BAIRD HANSON LLP; MARCIA Y. KINTER, VICE
1732 PRESIDENT, GOVERNMENT & BUSINESS INFORMATION, SPECIALTY
1733 GRAPHIC IMAGING ASSOCIATION; WENDY NEU, EXECUTIVE VICE
1734 PRESIDENT, HUGO NEU CORPORATION; AND VINCE RYAN, COUNTY
1735 ATTORNEY, HARRIS COUNTY, TEXAS

|
1736 ^STATEMENT OF LEONARD F. HOPKINS

1737 } Mr. {Hopkins.} Thank you very much. Good afternoon.
1738 My name is Leonard Hopkins, as stated, and I serve as the
1739 fuel and compliance manager for Southern Illinois Power
1740 Cooperative. I am honored to have the privilege to appear
1741 before you today.

1742 Southern Illinois Power is generation and transmission
1743 cooperative serving approximately 250,000 people and
1744 businesses located in the southern-most counties of Illinois.
1745 We are a not-for-profit corporation and are owned directly by
1746 our members. SIPC operates one power generation station
1747 south of Marion, Illinois which utilizes two coal-fired
1748 boilers to generate power for its members.

1749 When each of these boilers was built, they were equipped

1750 with state-of-the-art pollution control equipment that would
1751 allow them to burn Illinois bituminous coal and meet all
1752 environmental regulations. We continue to comply with such
1753 regulations today.

1754 The coal combustion residue regulation being proposed by
1755 EPA poses a serious threat, excuse me, to the economic
1756 survival of the cooperative for which I work. My comments
1757 will focus on the effects EPA's decision could have on
1758 Southern Illinois Power. I believe these comments also
1759 reflect the sentiments of many of our nation's electric
1760 cooperatives. Southern Illinois Power Cooperative has been
1761 utilizing its coal combustion byproducts in beneficial ways
1762 for over 20 years. Roof shingle sand, abrasive products,
1763 mine reclamation, cement, and fertilizer blends are all
1764 example of ways our coal combustion residues are recycled
1765 into beneficial products for society.

1766 Southern Illinois Power is concerned that placing the
1767 label of hazardous on coal combustion residue will place the
1768 same stigma on all coal combustion byproducts and effectively
1769 end the possibility of recycling such materials. In the
1770 litigious society of today, manufacturers and end users will
1771 flee from any recycled product that is remotely related to a
1772 hazardous waste. Such an action would remove these recycled
1773 products from the marketplace, and the recovery of

1774 replacement materials would require increased emissions of
1775 carbon dioxide and other pollutants.

1776 Further, small virtually unavoidable spills of ash at
1777 power plants could be considered illegal disposal of
1778 hazardous material and could cause the plant to be in a
1779 constant state of noncompliance. Shipments to hazardous
1780 waste landfills in the country could increase tenfold as such
1781 hazardous waste landfills might be completely filled in only
1782 2 years. The barriers to compliance associated with such an
1783 action could conceivably drive coal-fired power generators
1784 like Southern Illinois Power out of business.

1785 Southern Illinois Power Cooperative is a small
1786 generation and transmission system and defined as a small
1787 business by the U.S. Small Business Administration. By
1788 regulation, cooperatives are not allowed to maintain large
1789 capital reserves.

1790 When the cost of running our business suddenly increases
1791 like it would under the subtitle C option, we must go
1792 directly to our lenders. There is no cash cushion to
1793 mitigate these increases, and the cost of new loans would be
1794 shared by each co-op member owner in the form of higher
1795 electricity rates. SIPC conservatively estimates the
1796 subtitle C option would cost its members a minimum of an
1797 additional \$11 million per year, which is about 25 percent of

1798 our current annual fuel budget, and we serve an area of the
1799 State that has up to 15 percent unemployment.

1800 In cases where businesses like SIPC are affected, EPA is
1801 obliged to pursue the least costly approach in order to
1802 mitigate impacts on facilities that can least afford them.
1803 Moreover, Congress made clear in enacting the Bevel
1804 Amendment, under which this decision is being made, that EPA
1805 should avoid the subtitle C option if at all possible.

1806 Under the subtitle D option, EPA can promulgate federal
1807 regulations specifically designed for CCR disposal units.
1808 These regulations would be directly enforceable by the States
1809 and the public under RIKRA citizen supervision, and violators
1810 would be subject to significant civil penalties. Excuse me.
1811 EPA would also retain its imminent and substantial
1812 endangerment authority to take action against any CCR units
1813 that pose risk to human health or the environment.

1814 The D prime option would enable EPA to establish an
1815 environmentally protected program without crippling CCR
1816 beneficial use and imposing unnecessary costs on power
1817 plants, threatening jobs and increasing electricity costs.

1818 In conclusion, Southern Illinois Power agrees with many
1819 others who are already on record as opposing the subtitle C
1820 approach. This list includes a bipartisan group of 165 House
1821 members and 45 U.S. senators in the 111th Congress, virtually

1822 all the States, other federal agencies, municipal and local
1823 governments, CCR marketers and beneficial users, unions, and
1824 many other third parties who have maintained that regulating
1825 CCRs under RIKRA's hazardous waste program is simply
1826 regulatory overkill and would cripple the CCR beneficial use
1827 industry.

1828 We respectfully suggest there is no reason to pursue
1829 this approach when the subtitled D prime option offers the
1830 same degree of protection without the attendant risks and
1831 burdens of subtitle C.

1832 Thank you again for the opportunity to express the views
1833 of a small cooperative regarding a proposed regulation that
1834 will have lasting effects on the lives and livelihoods of our
1835 members. Thank you.

1836 [The prepared statement of Mr. Hopkins follows:]

1837 ***** INSERT 5 *****

|
1838 Mr. {Shimkus.} Thank you, Mr. Hopkins, and I recognize
1839 Mr. Baird for 5 minutes. Let us get your microphone set.

|
1840 ^STATEMENT OF JOSEPH BAIRD

1841 } Mr. {Baird.} That will help. I am Joe Baird, a partner
1842 in Baird Hanson Williams, a mineral resource firm in Boise,
1843 Idaho. I am also president of the Northwest Mining
1844 Association. Today I am representing the Idaho Cobalt
1845 Project of the Formation Capital Corporation, U.S.

1846 But the problem we now seek to address is not unique to
1847 formation. It is a problem for any mining company operating
1848 or hoping to operate on federal lands. And by showing up
1849 here today, we were hoping to alert the Congress and the
1850 executive branch to a developing duplication of--a true
1851 duplication of environmental regulatory burdens that are
1852 already managed by longstanding programs of the BLM and the
1853 Forest Service governing exactly the same subject matter and
1854 covering the same technical issues as an EPA regulatory
1855 initiative.

1856 Now, just quickly on the Cobalt Project, it is a project
1857 that is at the end of permitting, and it is--it will consist
1858 of an underground mine and a floatation mill that uses simple
1859 physical separation of ore from country rock, eliminating the
1860 need to use aggressive chemicals for the milling.

1861 The project footprint is only about 135 acres, and it is

1862 located within a traditional cobalt mining district. And to
1863 the extent possible, the project will backfill workings with
1864 cemented paste tailings and development rock and use dry
1865 stack tailings for surface storage to eliminate the need for
1866 a tailings bond. Project will produce about 185 direct jobs,
1867 \$8.2 million in annual payroll, \$8.8 million in taxes
1868 annually for a minimum of 10 years and will importantly be
1869 the only source of super alloy cobalt in the U.S. Super
1870 alloy grade cobalt is a critical component of all jet engines
1871 and many green applications including hybrid cars, solar
1872 cells, and wind turbines.

1873 Currently all U.S. needs are met by importation
1874 primarily from a single foreign company. Formation is very
1875 proud of the fact that the Forest Service approval of the
1876 final environment impact statement has not been challenged.
1877 We have written our verbal understandings with the Shoshone
1878 Bannock Nations, the Nez Perce Nation, the Idaho Conservation
1879 League, Boulder White Clouds Council, Earth Works, and
1880 Western Mining Action Project. We were and are grateful for
1881 those constructive discussions.

1882 Yet even with all of these favorable attributes, the
1883 project took 7 years to permit, and that is simply too long.
1884 Today, we are not even going to try to deal with those
1885 permitting issues, but we are trying to head off something

1886 coming at us or coming at the industry as a whole.

1887 For decades, mines on federal lands have been subject to
1888 strict, site-specific reclamation financial assurance
1889 requirements of the Forest Service or the BLM. The Cobalt
1890 Project is on land managed by the Forest Service, but EPA is
1891 developing its own financial assurance requirements for all
1892 hard rock mines, including those already subject to financial
1893 assurances of the BLM and the Forest Service.

1894 If EPA proceeds as they are currently planning, it would
1895 end up causing financial assurances to be bonded, to be cash
1896 bonded actually, beyond what the Forest Service or the BLM
1897 determines is actually needed to protect the environment.
1898 The debt capital requirement would unnecessarily force
1899 termination of many existing mines, jobs, public and private
1900 revenue streams, and hamper creation of new mines supplying
1901 strategic and base metals and materials necessary to sustain
1902 U.S. manufacturing jobs.

1903 Implicit in EPA's position is that Forest Service BLM
1904 programs are managed so incompetently that as a class mines
1905 on Forest Service or BLM lands constitute a degree and
1906 duration of risk that EPA must--that causes EPA to must
1907 duplicate the long established Forest Service and BLM
1908 programs.

1909 Yet in 1999, the National Research Council of the

1910 National Academy of Science as responding to Congress found
1911 that existing Forest Service BLM framework to be ``generally
1912 effective in protecting the environment'' and more
1913 importantly even for this purpose that ``improvements in the
1914 implementation of existing regulations prevent the greatest
1915 opportunity for improving environmental protection, meaning
1916 that let us work with the existing structure as opposed to
1917 creating whole new programs out there.

1918 So just to wrap up, the Idaho cobalt project and many
1919 other mines existing in future are critical to the survival
1920 and the revival of the U.S. manufacturing sector, which
1921 depends on mining products as feed stock. Mining and
1922 manufacturing produce some of the best paid jobs and best tax
1923 revenue streams in the entire economy.

1924 Permitting of hard rock mines in the U.S. is already a
1925 long and costly process particularly when compared to our
1926 business competitors in the world. So please don't force us
1927 to do the same thing twice with two different departments and
1928 end up having to pay reclamation bonds twice over. Thank you
1929 very much for your time.

1930 [The prepared statement of Mr. Baird follows:]

1931 ***** INSERT 6 *****

|
1932 Mr. {Shimkus.} Thank you, Mr. Baird. Now I would like
1933 to recognize Ms. Kinter for 5 minutes.

|
1934 ^STATEMENT OF MARCIA Y. KINTER

1935 } Ms. {Kinter.} Thank you. Good afternoon. My name is
1936 Marci Kinter, and I am the vice president of Government and
1937 Business Information for the Specialty Graphic Imaging
1938 Association, or SGIA.

1939 Thank you for the opportunity to address you this
1940 afternoon regarding a timely industry concern. Specifically
1941 I am here today to address a misguided interpretation of the
1942 byproducts exemption included in the Toxic Substance Control
1943 Act's inventory update law. This proposed interpretation
1944 offered by the EPA Office of Chemical Safety and Pollution
1945 Prevention will impose a significant reporting burden on the
1946 struggling U.S. manufacturing sector, without providing
1947 additional health, safety, or environment benefit beyond that
1948 already provided under existing EPA and OSHA regulations.

1949 It is vital that you remind EPA of congressional intent
1950 to exempt most byproducts from the reporting requirements
1951 under the TSKA inventory update rule or IUR. Your interest
1952 in this matter is timely as the rule that I am here to
1953 discuss is currently undergoing interagency review.

1954 SGIA represents the interests of those facilities that
1955 produce a wide array of products using either the screen

1956 printing or digital imaging print platform. Products such as
1957 all types of signage, the membrane switch on your microwave
1958 oven, the defrost pattern on your car's rear window to--and
1959 we are most known for our message on our T-shirts that we
1960 provide to everyone when you are wearing them. That is the
1961 industry sector that I represent.

1962 Currently there are over 25,000 screen and digital
1963 printing facilities operating in the U.S. And the screen and
1964 digital print community is comprised of small businesses.
1965 The average facility size ranges from 50 to 40 employees. As
1966 you know, the cost of regulatory compliance poses a
1967 significantly higher burden on the small business community.

1968 The TSKA inventory update rule requires the reporting of
1969 extensive data concerning the manufacturing, processing, and
1970 use of chemical substances. I am not here today to discuss
1971 the benefits or burdens of the entire TSKA inventory update
1972 rule. Instead, I would like to focus on a specific aspect,
1973 EPA's misinterpretation of the byproduct exemption under the
1974 proposed amendments to the IUR.

1975 In the proposed rule, EPA's misguided interpretation
1976 says that waste byproducts generated during the manufacturing
1977 of items, like these T-shirts, are new chemicals if the
1978 manufacturer does the right thing by sending these waste
1979 byproducts by recycling rather than disposing of them. To

1980 say we were shocked to discover that the proposed TSKA IUR
1981 would have an actual regulatory impact was surprising as we
1982 are printers and not chemical manufacturers.

1983 While we use chemicals, including inks and solvents, we
1984 certainly do not consider ourselves to be chemical
1985 manufacturers. At the end of the day, the final product that
1986 moves out the door is the printed product, such as this T-
1987 shirt, not a chemical product. Under EPA's interpretation,
1988 sending our waste byproducts, such as spent solvents and inks
1989 for recycling, would be considered by EPA to be the
1990 manufacturing of a new chemical for commercial purposes,
1991 subjecting us to registration reporting of our waste
1992 byproducts under TSKA.

1993 Our companies are already regulated by both OSHA for
1994 worker exposures as well as U.S. EPA for proper handling and
1995 disposal. EPA's misguided interpretation will not only
1996 affect those facilities represented by SGIA. Manufacturers
1997 of all sorts will now be burdened by reporting their waste
1998 byproducts as new chemicals.

1999 Every manufacturing sector that has opted to send their
2000 waste byproducts out of recycling rather than disposal will
2001 be saddled with this recording keeping and recording burden.
2002 There is still time to take action, but we need your help.
2003 We believe that the interpretation offered by the U.S. EPA

2004 regarding the reporting of byproducts is not what Congress
2005 intended. The waste byproducts offered by the U.S. product
2006 manufacturing community are already regulated by U.S. EPA,
2007 and the proposal would only increase the regulator burden
2008 with no discernable environmental benefit.

2009 Thank you again for the opportunity to appear before you
2010 today, and I would be happy to answer any questions you might
2011 have on this critical industry topic.

2012 [The prepared statement of Ms. Kinter follows:]

2013 ***** INSERT 7 *****

|
2014 Mr. {Shimkus.} Thank you, Ms. Kinter, and before I move
2015 to Ms. Neu, I was asked by the ranking member, and so without
2016 objection, I would like to recognize him for a minute to do
2017 an introduction of the two Democrat-sponsored witness.

2018 Mr. {Green.} Thank you, Mr. Chairman. I will be brief.
2019 I mainly want to thank both Ms. Neu and Mr. Ryan on short
2020 notice for coming here to provide your expertise on the side
2021 of what sometimes is good about recycling requirements. So
2022 but again, thank you all on short notice. I was telling the
2023 chairman I know how much it costs to fly from Houston to D.C.
2024 and hopefully you got a better rate than I did. So on short
2025 notice but welcome.

2026 Mr. {Shimkus.} I too want to welcome you also, and now
2027 I recognize Ms. Neu for 5 minutes.

|
2028 ^STATEMENT OF WENDY NEU

2029 } Ms. {Neu.} Good afternoon. My name is Wendy Neu. I am
2030 an owner and executive vice president of Hugo Neu
2031 Corporation. We are a diversified U.S.-based company that
2032 has owned and managed industrial and commercial business
2033 assets in excess of \$500 million. As well, we have employed
2034 up to 1,100 workers at a time in a business that has had
2035 export sales in excess of \$2 billion in a single year.

2036 As an executive of a mid-sized business with hundreds of
2037 millions of dollars at stake in industrial and commercial
2038 business assets, it is clear to me that from my industry,
2039 regulations promulgated and enforced by the EPA have been and
2040 remain essential to the growth, diversification and
2041 sustainability of recycling operations, both for the company
2042 and for its employees.

2043 Let me provide you with an example of how strong EPA
2044 regulations would allow Hugo Neu to more successfully compete
2045 globally. It is a policy approach that would level the
2046 playing field for American business in a way that creates
2047 U.S. jobs. Also, it removes the disadvantages my business
2048 now suffers from in competing with companies that don't meet
2049 environmental standards and choose to export toxic e-waste to

2050 developing countries.

2051 It ought not to go unnoticed that the GAO itself has
2052 suggested current regulations regarding e-waste are woefully
2053 narrow in scope. One of the industrial operations we own
2054 focuses on recycling of used and obsolete post-consumer and
2055 commercial electronic equipment, which is commonly referred
2056 to as e-waste. The name of our company which processes this
2057 e-waste is We Recycle. It is based in Mount Vernon, New
2058 York. Like communities throughout our nation, Mount Vernon
2059 with a population of approximately 38,000 people is desperate
2060 for jobs with living wage. I am proud to report that my
2061 company does pay a living wage.

2062 The employees who work at our company are focused on
2063 repairing or otherwise recycling e-waste. The technology we
2064 have developed allows us to recover high value clean streams
2065 of commodities. These commodities are then sold to the best
2066 industrial consumers domestically or are exported to
2067 industrial consumers around the world.

2068 But Hugo Neu Corporation could be doing more, recycling
2069 more and hiring more workers if we did not have to compete
2070 against the low-road actors in our industry. Unfortunately,
2071 inadequate and insufficient regulation by the EPA are
2072 stifling the growth of my environmentally responsible
2073 business and cutting off a potential for job growth.

2074 Jobs that could be developed at e-waste recycling
2075 businesses around the country such as mine are now being
2076 exported to China, southeast Asia, and countries in Africa,
2077 precisely because the EPA does not effectively limit the
2078 export of hazardous electronic waste by unscrupulous
2079 collectors in the United States.

2080 Every single country in the OECD, other than the United
2081 States, limits the export of e-waste to these countries.
2082 They wisely preserve jobs in their countries and limit the
2083 spread of toxic waste. If other industrialized countries can
2084 do it to create an advantage for their businesses and their
2085 workers, then it seems to me that the U.S. Congress ought to
2086 do no less for American workers and American business.

2087 I cannot overstate the reality that to cut EPA funding
2088 will hurt our business. It is the existence of current EPA
2089 regulatory guidance, such as that which now discourages the
2090 dumping of at least some e-waste in landfills that has helped
2091 our business to grow.

2092 EPA regulations add economic value to our investment
2093 because we are a recognized, environmentally responsible
2094 company adhering to high standards and known to be well
2095 managed.

2096 Our business customers have confidence in our ability to
2097 recycle e-waste responsibly. Of course, as I said earlier,

2098 much more can and should be done. Indeed, this point was
2099 made in a September 17, 2008 Government Accountability Office
2100 Report which said this ``EPA could amend RIKRA regulations to
2101 cover exports of used electronics where risks exist to human
2102 health or the environment when reclaimed for reuse or
2103 recycling,'' an action that, if implemented, could bring U.S.
2104 export controls more in line with those of other
2105 industrialized countries.

2106 The current limited and, in my view, inadequate approach
2107 by the EPA needs to be replaced with regulations that will
2108 level the playing field for responsible recyclers like my
2109 company. A failure by Congress to do so is a choice, from
2110 the perspective of my business, to favor a policy that curbs
2111 jobs growth, stifles business expansion, and tilts the
2112 playing field in a way that advantages low-road recyclers and
2113 costs American jobs. Thank you.

2114 [The prepared statement of Ms. Neu follows:]

2115 ***** INSERT 8 *****

|
2116 Mr. {Shimkus.} Thank you. Now, I would like to
2117 recognize the Honorable Mr. Ryan from--the attorney from the
2118 county in Texas, and you are recognized for 5 minutes.

|
2119 ^STATEMENT OF VINCE RYAN

2120 } Mr. {Ryan.} Thank you very much.

2121 Mr. {Shimkus.} Inspect your microphone for me. There
2122 is a button at the bottom of it.

2123 Mr. {Ryan.} Now it is even greener. Well, that is very
2124 appropriate, isn't it? Goes from a very light green to a
2125 green green. And may I say again thank you very much for
2126 allowing me to appear today and talk about a success story
2127 working with the EPA.

2128 I am Vince Ryan, the Harris County attorney. Harris
2129 County, Texas is the third most populous county in the U.S.
2130 and home to the nation's largest petrochemical complex and
2131 the port of Houston, which is ranked first in the U.S. in
2132 foreign, water-borne tonnage. With a strong industrial base,
2133 Harris County has fared better than some of the region of the
2134 U.S. in these economic hard times. With property taxes
2135 declining, which is the basic revenue source for local
2136 governments in Texas. Our local government of Harris County
2137 also faces a significant budgetary shortfall, yet we
2138 understand that providing healthy communities in which our
2139 residents can work and strive towards a better quality of
2140 life with cleaner air and water quality remain a high

2141 priority.

2142 Let me add, I have been county attorney since January 1
2143 of 2009, but before that, I was a Houston City council
2144 member. Before that, I was an assistant county attorney,
2145 actually the first assistant in that office. So my
2146 experience spans almost 30 years dealing with these issues in
2147 Harris County and for Harris County. I am here today in my
2148 capacity as the elected county attorney, but also
2149 representing Harris County government as spoken through the
2150 commissioner's court, which is the governing body generally
2151 of Harris County government.

2152 And we are sincerely grateful for the work the EPA and
2153 EPA region six are doing to end the severe contamination of
2154 Galveston Bay, San Sell Bay, and waterways leading to both by
2155 the San Jacinto dioxin waste pits. And we urge the EPA, with
2156 congressional support, to continue using appropriate and
2157 forceful measures where necessary to achieve effective
2158 solutions for this site and quite frankly similar sites
2159 throughout not just Texas, but the United States. And we
2160 urge this committee and Congress to support these efforts.

2161 A little bit of history. Congress member Green and
2162 Congress member Ted Poe who I have known since he was an
2163 assistant district attorney and when he was a district judge
2164 in Harris County. Both asked the EPA to look into this

2165 matter and take it under consideration. On March 19, 2008,
2166 the San Jacinto River waste pits Superfund site was listed on
2167 the national priorities list. The site with waste ponds and
2168 surface impoundments built in the 1960s for the disposal of
2169 pulp and paper mill waste is located in a marsh partially
2170 submerged on the western bank of the San Jacinto River in
2171 Harris County, Texas immediately north of Interstate Highway
2172 10 and a bridge over the San Jacinto River.

2173 High dioxin concentrations have been documented at the
2174 site. Sediment water and fish and crab tissue samples
2175 collected in the surrounding areas have also been found to
2176 have highly elevated levels of dioxin. According to the EPA
2177 and our own verification, exposures to dioxin can cause a
2178 number of adverse health effects in humans, including cancer,
2179 skin disorders, severe reproductive and developmental
2180 problems, and damage to the immune and hormonal systems.

2181 May I add this bay area is much like the Chesapeake Bay
2182 here that each and every member and their staffs are familiar
2183 with. It is surrounded by populated areas, and the day that
2184 I first visited after taking office this site, Terry
2185 O'Rourke, my first assistant, who is sitting back of me, and
2186 I were with some other people. They were working people on a
2187 day off with their families fishing while the kids were
2188 swimming within feet of the emanating dioxins from this site

2189 that had been used for years as a dumping ground in public
2190 waters for these types of waste within minutes, I might add,
2191 even though there were signs saying don't swim, signs saying
2192 don't fish, people were doing it there.

2193 The EPA identified two responsible parties:
2194 International Paper Company and McGuinness Industrial
2195 Maintenance Corporation, a subsidiary of Waste Management.
2196 Now, this other side of the story we have heard quite a bit
2197 today this afternoon. These are two major corporate citizens
2198 with significant resources, and I am sure every member and
2199 staff member here, I was--quite frankly, when I first got
2200 involved with this specific issue, we looked at the EPA and
2201 saw this snakelike structure of process to get to clean up a
2202 site that for years had been known by the public and these
2203 two corporate responsible parties of polluting and poisoning
2204 people throughout that area.

2205 I am a native Houstonian, grew up in the area. I have
2206 been with people fishing all through this area. I never knew
2207 of it until in 2009, I had taken office, and we were
2208 approached with this.

2209 Harris County government has also become very involved.
2210 We, of course, in Texas have a very divided government at the
2211 county level, much like the federal level with different
2212 elected employment officials. But first we all have come

2213 together to say we have got to help the EPA as they try to
2214 solve this problem as quickly as possible.

2215 With unique abilities, Harris County has really been
2216 active in environmental issues since about 1953 and have
2217 accelerated over the time. Again understanding that the
2218 industry, the petrochemical industry is a vital part of our
2219 economic centrality to really the economy of the United
2220 States and to a great extent the world based upon the
2221 economies that we have.

2222 Luckily, under even the Superfund's law and working with
2223 the EPA, soon there was a critical component which required
2224 work to begin. This again EPA working with these corporate
2225 responsible parties and to be completed within a short
2226 timeframe. Here the actual agreed order of consent was
2227 signed on May 2010, and the design choice was outlined.

2228 Mr. {Shimkus.} You are already a minute and a half over
2229 time. So you can wrap it up.

2230 Mr. {Ryan.} Let me just say things are moving, but they
2231 are moving more slowly than we would like. The EPA has been
2232 very aggressive on this, and we log them and urge your
2233 support on areas, especially where clear definition of
2234 responsibility is apparent.

2235 [The prepared statement of Mr. Ryan follows:]

2236 ***** INSERT 9 *****

|
2237 Mr. {Shimkus.} I thank you. I now will recognize
2238 myself for 5 minutes for questions. I am going to go pretty
2239 quick because there is a lot I want to put on the table. So
2240 again thank you all for coming.

2241 And first of all, I want to put on the record no one is
2242 here--we are not here debating to eliminate the EPA or stop
2243 the work when there is toxicity and there is damage to human
2244 health. That obviously is not the proposal. The whole
2245 purpose of the hearing is can we be smart and make sure the
2246 rules are important enough in protecting human health while
2247 we are protecting jobs. And this new Congress has a focus on
2248 job creation.

2249 So with that, I don't have a piece of Illinois
2250 bituminous coal. I do have one in my office. That didn't
2251 get brought down. Mr. Hopkins, why is that important that
2252 you burn Illinois bituminous coal?

2253 Mr. {Hopkins.} Well, I am from an area--

2254 Mr. {Shimkus.} Quickly now. Quickly.

2255 Mr. {Hopkins.} --that mines Illinois coal, so we serve
2256 our members by using their product to create electricity for
2257 them.

2258 Mr. {Shimkus.} The coal found in Illinois is what type
2259 of coal?

2260 Mr. {Hopkins.} It is Illinois bituminous coal.

2261 Mr. {Shimkus.} So a co-op is different, and really co-
2262 ops should be, my friends on the other side, these are
2263 agencies that you ought to love because you are not-for-
2264 profit. Is that correct?

2265 Mr. {Hopkins.} That is correct.

2266 Mr. {Shimkus.} Your board members are highly salaried.
2267 Is that right?

2268 Mr. {Hopkins.} Our board members are poorly paid.

2269 Mr. {Shimkus.} Poorly paid, volunteers. Just smally
2270 compensated. And the owners of the co-op are?

2271 Mr. {Hopkins.} The owners of the cooperatives are their
2272 members that they serve.

2273 Mr. {Shimkus.} So the members. So every time we do
2274 something that may affect a regulatory burden, as you said in
2275 your testimony, say there is a new capital expansion, you
2276 cannot carry a large capital fund for future expansions.
2277 You have to go where?

2278 Mr. {Hopkins.} We have to go out and look for a loan
2279 for the money, and we go to our rate payers, our member
2280 owners to pay that bill for that loan.

2281 Mr. {Shimkus.} Okay, and I will just hold this up. The
2282 same picture. They have seen that at least 6 years. These
2283 are Illinois coal miners.

2284 Mr. {Hopkins.} Illinois coal miners.

2285 Mr. {Shimkus.} Mining bituminous coal, and because of
2286 many companies didn't do--you did it out of complying with
2287 the needs to create electricity for your members, but also
2288 protect coal miners' jobs. But you did the capital expense
2289 to a scrubber, correct?

2290 Mr. {Hopkins.} That is correct. We installed a
2291 scrubber in 1978.

2292 Mr. {Shimkus.} And the companies that did not do
2293 scrubbers, guess what they did to these miners. They fired
2294 them. Okay, that is the effect of regulations, and we want
2295 to applaud you for doing the right thing. Let me--I want to
2296 hold us this. You know what this is, Mr. Hopkins? Can you
2297 see this?

2298 Mr. {Hopkins.} Looks like a clean slate or a blank
2299 piece of paper.

2300 Mr. {Shimkus.} No, actually it is--

2301 Mr. {Hopkins.} Wall board. I am sorry.

2302 Mr. {Shimkus.} And what is in the middle?

2303 Mr. {Hopkins.} That would be calcium sulfate or gypsum.

2304 Mr. {Shimkus.} And where do we get gypsum from?

2305 Mr. {Hopkins.} You need to get it naturally from the
2306 ground, or you can get it from a FGD on a coal-fired power
2307 plant, which we produce 95 percent pure gypsum.

2308 Mr. {Shimkus.} Would this be part of the coal ash
2309 debate?

2310 Mr. {Hopkins.} It is.

2311 Mr. {Shimkus.} And this is found in everybody's home?

2312 Mr. {Hopkins.} Yes, sir.

2313 Mr. {Shimkus.} The particle boards for most people or
2314 the wall boards for most people that have been accused of
2315 being toxic came from where?

2316 Mr. {Hopkins.} Most of them came from overseas.

2317 Mr. {Shimkus.} Came from China. So in this debate, if
2318 the EPA is successful in regulating coal ash as a toxic, will
2319 you be able to sell gypsum to the person who produces the
2320 wall board?

2321 Mr. {Hopkins.} We are concerned that the homeowner
2322 would not be interested in buying any product that would
2323 remotely be related to hazardous waste.

2324 Mr. {Shimkus.} And so then the homebuilders would have
2325 to get a different product? Okay, my time is brief. I want
2326 to go to Mr. Baird. Duplicate regulation, the administration
2327 is trying to send signals that they want to be smart on
2328 regulatory so they don't duplicate. Aren't you in a catch-22
2329 on duplication of regulations?

2330 Mr. {Baird.} Yes, sir.

2331 Mr. {Shimkus.} The Forest Service and EPA?

2332 Mr. {Baird.} Yes, sir.

2333 Mr. {Shimkus.} How many jobs would this cobalt mine
2334 create?

2335 Mr. {Baird.} It will create directly 185 jobs.

2336 Mr. {Shimkus.} What is the employment rate of the
2337 surrounding area?

2338 Mr. {Baird.} Well, the two counties that would benefit
2339 have just over 12 percent for Lemhi and just over 14 percent
2340 for Shoshone.

2341 Mr. {Shimkus.} What would be the tax benefit to the
2342 area, just the local property tax?

2343 Mr. {Baird.} Annual? Well, it is not just the property
2344 tax, but the number for all taxes--

2345 Mr. {Shimkus.} Okay, the income tax and the employment.

2346 Mr. {Baird.} --is \$8.8 million per year.

2347 Mr. {Shimkus.} And what is cobalt used for?

2348 Mr. {Baird.} It is used for many high technology
2349 purposes, but the biggest single one is for jet engines.

2350 Mr. {Shimkus.} Is it also used in what people would
2351 define as green manufacturing?

2352 Mr. {Baird.} It is critical to the Toyota Prius
2353 battery. It is also critical for wind power.

2354 Mr. {Shimkus.} Do you where do we get cobalt right now?

2355 Mr. {Baird.} Right now, the bulk of the super alloy

2356 cobalt, because there are two different types, comes from one
2357 plant in Norway.

2358 Mr. {Shimkus.} Overseas. We import the product. And I
2359 am going to take the prerogative chair just to make the point
2360 for Ms. Kinter because you are a printer.

2361 Ms. {Kinter.} Yes.

2362 Mr. {Shimkus.} You use ink.

2363 Ms. {Kinter.} Yes.

2364 Mr. {Shimkus.} If you take that ink to a recycler, you
2365 fall under TASKA and have to file additional paperwork. Is
2366 that correct?

2367 Ms. {Kinter.} Correct, sir.

2368 Mr. {Shimkus.} Which is pretty burdensome for a small
2369 business.

2370 Ms. {Kinter.} Yes, sir.

2371 Mr. {Shimkus.} Okay, I wish I had more time. I don't.
2372 I will yield 5 minutes to the ranking member from Texas.

2373 Mr. {Green.} Thank you, Mr. Chairman. I am going to
2374 try to move quickly too. Mr. Hopkins, I have been a co-op
2375 member, and it started under FDR to bring power to very rural
2376 areas, and that is where so many in Texas get our power
2377 because, you know, a for-profit company can't make any money
2378 out there because it is so large, but I appreciate it.

2379 It sounds like you give a great example. EPA could have

2380 regulated, and I assume, in response to what happened in
2381 Tennessee with the coal ash, this is EPA's solution. But
2382 they could have gone under Title D instead of Title C.

2383 Mr. {Hopkins.} That is correct, sir. The option for
2384 either is in their regulations.

2385 Mr. {Green.} Obviously you have a problem, and I would
2386 sit down with your members of Congress, because I know that
2387 is what I would do with my industry. And like I said, I
2388 believe in co-ops. They are really a good program. I sold
2389 the property, so I am not a member anymore. But it was
2390 really a good system where you could get it.

2391 Mr. Baird, again you have almost the same situation.
2392 The Forest Service leased you the land, and they gave you
2393 your insurance requirements, or the--and now EPA is adding to
2394 your requirements.

2395 Mr. {Baird.} That is essentially correct, actually by
2396 direct duplication. They are going to be causing, or at
2397 least they are looking at right now--this is not out yet, but
2398 they are looking at putting together hard rock mine financial
2399 assurances that will apply to all mines, even if you are
2400 already regulated and bonded with the Forest Service or the
2401 BLM.

2402 Mr. {Green.} Well, it sounds like this Congress and
2403 maybe previous Congress should have said, okay, we have all

2404 these federal agencies. You ought to just speak with one
2405 voice, and you ought to get your act together before you put
2406 it on the private sector, and that makes sense. That doesn't
2407 mean we don't need regulations because I also understand what
2408 our country, because we know rare earth and precious metals,
2409 we need to mine them in our own country.

2410 Mr. {Baird.} Yes, sir.

2411 Mr. {Green.} We shouldn't--Norway is a great place to
2412 visit, and I would rather import something from Norway than
2413 China, but so much of the other rare earth we get from China,
2414 and we need to develop that. So I think there is a solution
2415 to that one.

2416 Ms. Minter--I have to admit--I am sorry, Kinter.

2417 Ms. {Kinter.} That is okay.

2418 Mr. {Green.} In an earlier life, I managed a printing
2419 company. We printed daily newspaper, and I agree that under
2420 OSHA because our problem was is that we finished cleaning our
2421 plates we would recycle the solvent. And it ought to be the
2422 same regulation under EPA that you would do for OSHA. It
2423 would seem like it would because that solvent though is a
2424 hazardous chemical, and in my experience from literally the
2425 '60s through the 1990 when I left there, we had problems with
2426 some of the printers actually dumping it out in the street or
2427 in the--you know, and there was a way that you needed to

2428 track it, whether it be through OSHA or through EPA.

2429 Ms. {Kinter.} Correct, and I will say, sir, that the
2430 U.S. EPA's hazardous waste regulations do a marvelous job of
2431 requiring our companies to manifest our hazardous waste as it
2432 goes out the door. So the waste is definitely being tracked,
2433 but through our efforts when we are trying to encourage the
2434 printers to use either low-level hazardous waste or even non-
2435 hazardous products to reduce worker exposure. These are the
2436 products that are going to get caught in the catch-22 and
2437 look toward duplicative reporting because these are the
2438 chemicals that are being sent offsite for recycling or even
2439 disposed of as liquid nonhazardous waste correctly that are
2440 now going to be considered new chemicals and then subject to
2441 even more reporting under--

2442 Mr. {Green.} And that is where I agree with you. Once,
2443 you know, it is a byproduct of your production.

2444 Ms. {Kinter.} Correct.

2445 Mr. {Green.} And once you send it to an approved
2446 recycler, that should take care of it.

2447 Ms. {Kinter.} Correct.

2448 Mr. {Green.} And so I think there are things that we
2449 could probably do on at least the three cases that have come
2450 up that I think is reasonable, and that is why I am glad you
2451 are here because that is our job is to make the federal

2452 government work. And granted it is a tough job every day,
2453 and it is 24/7, but I agree with you.

2454 Ms. {Kinter.} Thank you.

2455 Mr. {Green.} Let me go to Ms. Neu. You have been--as
2456 you know, I have been working on legislation now a number of
2457 years to set federal regulations for electronic waste. How
2458 is your business affected by the lack of a federal e-waste
2459 regulation? Because I assume you work in a number of other
2460 states.

2461 Ms. {Neu.} We actually work in New York and Connecticut
2462 at the moment but are planning to expand hopefully into the
2463 middle region of the country. The fact that much, probably
2464 close to 80 percent is what is estimated of e-waste is
2465 exported to developing countries. So in that regard, we are
2466 competing with brokers, dealers, who are literally just
2467 filling a container up with electronic waste, no processing,
2468 no segregation of materials, and shipping it overseas for
2469 recycling. So that is one of our challenges.

2470 Mr. {Green.} I only have a few seconds left.

2471 Ms. {Neu.} Sure.

2472 Mr. {Green.} And I think you made the case that we need
2473 some type of national standard instead of state-by-state--

2474 Ms. {Neu.} Exactly.

2475 Mr. {Green.} --both for industry but also to make the

2476 recycling efficient.

2477 Ms. {Neu.} Right.

2478 Mr. {Green.} Mr. Ryan, I hate to call you Mr. Ryan. We
2479 have known each other for so many years. Vince, one, I
2480 appreciate what you have done, and I was frustrated, and I
2481 think Ted Poe and I were both frustrated originally with EPA.
2482 But now we are seeing some progress, and I don't think it
2483 would have happened without an elected official and a local
2484 community providing a lot of the information that you were
2485 that actually helped our regional EPA office.

2486 So there is a reason to have EPA, and sometimes we--it
2487 actually will benefit because coming from a very industrial
2488 area, every industry along the channel is getting blamed for
2489 the high dioxin level in the water, but we couldn't find it
2490 until we found out that, you know, 40 or 50 years ago, that
2491 was dumped there.

2492 And we ended up--and so all my other plants were really
2493 happy because they said we were getting a black eye because
2494 of what happened before we had an EPA, and so there is good
2495 reason to have reasonable environmental oversight because it
2496 can help industry at the same time.

2497 Mr. {Ryan.} But I would agree with you that now we have
2498 got supposed first in the nation a community awareness
2499 program going on where we are educating both the industry and

2500 the public about this particular site, but also the greater
2501 issues involved. How many other of these sites are--they
2502 were known to the industry, I might add. It was known it was
2503 a pollution site but not to the extent that we discovered.

2504 Mr. {Shimkus.} The gentleman's time is up. And as Ted
2505 Poe would say, and that is just the way it is. Well, in this
2506 case, Congressman Poe would want it changed. Ms. Neu, can
2507 you give the committee a credible universally accepted
2508 source? You keep quoting the 80 percent of export? And if
2509 you could--not right now, but if you would follow up with the
2510 committee so we can figure out--

2511 Ms. {Neu.} Absolutely.

2512 Mr. {Shimkus.} --and do analysis on that. Now, I would
2513 like to recognize Mr. Gardner for 5 minutes from Colorado.

2514 Mr. {Gardner.} Thank you, Mr. Chairman. My district in
2515 Colorado represents an area that is energy rich, a lot of
2516 agriculture opportunities, clean energy opportunities. We
2517 have it all. We have wind power. We have oil and gas
2518 development. We have solar companies are doing great things.

2519 It is interesting to see, over the past several years,
2520 farmers on the Eastern Plains who used to have people that
2521 would come by and collect their used oil and pay them to
2522 collect their used oil so that they could recycle it. And
2523 now the farmer themselves are paying to have somebody, the

2524 same person, now the farmer is paying to have them collect
2525 it. So they used to receive money for their spent oil. Now
2526 they are paying to have somebody pick up their spent oil, and
2527 in a lot of areas, it is because of increasing regulations.

2528 But as you have heard from so many people on the
2529 committee, regulations aren't a bad thing if they are done
2530 right and done with a common sense point of view. And so
2531 hearing from many of you talk today, a quick question for Ms.
2532 Kinter. Your testimony, you talk a lot about--you talk about
2533 reporting requirements in your testimony, and your members
2534 are already required to file reports for chemicals they have
2535 onsite under the Toxic Release Inventory. Are they--they are
2536 not--are they opposed to the reporting requirements?

2537 Ms. {Kinter.} No, they are not opposed to reporting
2538 requirements. What we are opposed to is the duplication of
2539 the reporting requirements because even under the TRI, they
2540 ask us to report for recycling.

2541 Mr. {Gardner.} So, you know, the information that
2542 concerns byproducts which is required to report--your members
2543 are required to report, is that available under other
2544 reporting requirements under federal law?

2545 Ms. {Kinter.} It is already currently available.

2546 Mr. {Gardner.} And are you concerned that the proposed
2547 IUR's compliance timeline--are you concerned about that as it

2548 relates to your members?

2549 Ms. {Kinter.} Certainly. We are looking at a timeline
2550 where the rule will be going final in May, and the first
2551 reporting period goes into effect in June of this year for
2552 actual information from last year. And if you have a group
2553 of manufacturer that has no idea that they had to even start
2554 collecting data from last year in order to report for this
2555 year, you can see that 30 days to put this information in
2556 place, to really start doing your inventory, and then even to
2557 look at reporting it over their Internet option, which is the
2558 only way that they are going to accept reports. EPA will
2559 only accept reports.

2560 Mr. {Gardner.} How much time are your members spending
2561 on reporting of this kind?

2562 Ms. {Kinter.} I would have to hazard a guess that based
2563 on all reporting, and I am lumping all the regulatory
2564 reporting together because they really don't segregate by
2565 specific statute, you are looking at anywhere eight hours a
2566 week for a small business, and that is including OSHA, and
2567 that is TRI reporting.

2568 And I should emphasize it is not just the reporting, but
2569 it is the record keeping because a lot of these records are
2570 already kept, you know, or--because they also have to do
2571 record keeping for their air, for their water, for their

2572 waste, for their recycling. It is all very, as we know, just
2573 media specific. And so it is very difficult for them to
2574 understand why now I am going to tell them that their
2575 recycling is no longer recycling.

2576 It is really a new chemical, and under that, you have to
2577 gather all this other information. And by the way, if it is
2578 a new chemical, we may have to consider do you need to
2579 develop a material safety data sheet to send it offsite
2580 because you are considered now a chemical in commerce. And
2581 this is layer upon layer of regulatory burden to a small
2582 business whose real goal is to produce a T-shirt to put out
2583 into the market at the end of the day.

2584 Mr. {Gardner.} Ms. Neu, are you familiar with some of
2585 the State's, their recycling, e-recycling programs the
2586 various States have?

2587 Ms. {Neu.} The legislation that has been passed?

2588 Mr. {Gardner.} Right.

2589 Ms. {Neu.} Yes, somewhat.

2590 Mr. {Gardner.} Is there a State in your opinion that is
2591 leading the rest?

2592 Ms. {Neu.} I think it is hard to say at this point in
2593 time because the legislation is relatively new. We just
2594 passed a law in New York which is not being implemented until
2595 June. So we really haven't seen all the results come in, but

2596 I think there is some very good legislation out there in many
2597 States that will increase the volume of e-waste.

2598 Mr. {Gardner.} Thank you. Mr. Chairman, I yield back
2599 my time.

2600 Mr. {Shimkus.} Gentleman yields back his time. Chair
2601 now recognizes the gentleman from North Carolina, Mr.
2602 Butterfield.

2603 Mr. {Butterfield.} Thank you, Mr. Chairman. If the
2604 chair would agree, I would like to yield to the gentleman
2605 from New Jersey in the interest of his schedule.

2606 Mr. {Shimkus.} Without objection, I would be happy to
2607 be recognized, the former chairman of the House subcommittee,
2608 which I served so honorably under as ranking member.

2609 Mr. {Pallone.} And your friend.

2610 Mr. {Shimkus.} And my friend.

2611 Mr. {Pallone.} Well, thank you, and I want to thank my
2612 colleague from North Carolina for giving me the time and
2613 remind the chairman that he and I chaired the recycling
2614 caucus. Don't you still chair?

2615 Mr. {Shimkus.} I still do, yes.

2616 Mr. {Pallone.} That is what I thought.

2617 Mr. {Shimkus.} Do you?

2618 Mr. {Pallone.} Yes, I am the Democrat. You didn't know
2619 that?

2620 Mr. {Shimkus.} We love caucuses here.

2621 Mr. {Pallone.} I am sorry. I just wanted to take an
2622 opportunity. First of all, I wanted to say hello to Wendy
2623 Neu, who is a long-time friend, and it was really great to
2624 have her here. I actually--I was actually in my office
2625 listening to your testimony while I was doing something else,
2626 so I did hear what you had to say, Wendy, even though I
2627 wasn't here. And I apologize.

2628 But what I wanted to mention is that, you know, the
2629 purpose of this hearing today obviously is to, and I
2630 appreciate the chairman convening it because we are
2631 concentrating on the numerous benefits to the economy that
2632 stem from some of our environment regulation, and I think of
2633 the Superfund and the Brownfields Program.

2634 I often say, Mr. Chairman, that Brownfields was the only
2635 legislation in the--and I don't say it in a bad way, but it
2636 was the only legislation under George Bush, the only
2637 environmental legislation or new authorized program that
2638 actually he was supportive of. And I think--I know I was the
2639 Democratic sponsor, and one of your predecessors was the
2640 Republican sponsors of the bill. So it was very bipartisan.

2641 And Wendy, Ms.-- I am going to call her Wendy, has been
2642 involved over the years in the Brownfields Program as well as
2643 what you testified about today. So I just wanted to ask you,

2644 you know, about your company, which I am familiar with, has
2645 redeveloped several Brownfield sites in New Jersey as well as
2646 other States. Can you just tell us, you know, the impact of
2647 that on the economy, jobs, what it meant in terms of, you
2648 know, reuse of those properties? Because I am very proud of
2649 Brownfields, and I just wanted you to comment on it if you
2650 would.

2651 Ms. {Neu.} Yes, I mean there has been many
2652 opportunities as a result of the Brownfields legislation, and
2653 because we are a company that generally exports commodities,
2654 we are often located in industrial areas and waterfront
2655 areas, which are very much Brownfield sites, particularly in
2656 New Jersey and New York.

2657 So it has been very helpful to us to have these sites to
2658 be able to position ourselves in strategic locations, which
2659 otherwise would not be available land for development. So
2660 yes, that has been--but I also want to thank both of you for
2661 being such good friends to the recycling community. You have
2662 been working with us for a very long time, and we really
2663 appreciate that.

2664 Mr. {Pallone.} Well, thank you. You know, it was Paul
2665 Gilmore.

2666 Ms. {Neu.} Yes.

2667 Mr. {Pallone.} It was Paul Gilmore and I that sponsored

2668 the federal Brownfields going back to the early '90s, I
2669 think, and President Bush had a signing ceremony in
2670 Philadelphia that he invited us to, and I couldn't go. I
2671 remember specifically. I wasn't even able to go.

2672 But if I could just mention, you know, again it has
2673 always been very bipartisan. It has always been something
2674 that, you know, we have been able to get support from. I
2675 think at the time when we started the authorization, our
2676 former governor, Republican governor Christie Whitman was the
2677 governor and then was the EPA administrator at the time as
2678 well.

2679 And I have just found in my district, Mr. Chairman, in
2680 particular, but I know it is all over the State and the
2681 country that what happens is, you know, these old industrial
2682 sites are basically redeveloped, and then they become new
2683 industries or new commercial properties that not only are
2684 increased ratables and tax dollars into the communities, but
2685 create a lot of jobs in every case.

2686 And a lot of what has been done has been, you know,
2687 assessment also, and oftentimes, they attract private
2688 developers that come in and also help with the cleanup, so I
2689 just wanted to mention that as one of the things that I know
2690 that you have been involved with too.

2691 You were talking about the Hugo Neu site, the scrap

2692 yard, right, before?

2693 Ms. {Neu.} Yes, recycling facility in Jersey City,
2694 yeah.

2695 Mr. {Pallone.} The recycling facility, all right.
2696 Thank you. I yield back.

2697 Mr. {Shimkus.} Gentleman yields back his time. Chair
2698 now recognizes the gentleman from Pennsylvania, Mr. Pitts.

2699 Mr. {Pitts.} Thank you, Mr. Chairman. Mr. Hopkins, in
2700 your testimony, you state that you believe your comments also
2701 reflect the sentiments of many electric cooperatives. If
2702 other small business cooperatives face similar threats to
2703 closing their doors, what would taking that many coal-fired
2704 generating units offline at once mean for the reliability of
2705 electric service throughout the Nation?

2706 Mr. {Hopkins.} Well, certainly I am not an expert on
2707 the grid as a whole across the Nation, but taking that many
2708 coal-fired utilities off the grid could lead to shortages and
2709 certainly would lead to increased price of electricity. In
2710 particular for those co-op coal-fired utilities, they would
2711 be forced to buy power off the grid at these higher prices.

2712 Mr. {Pitts.} Now, if you were able to stay in
2713 operation, your estimates say it would cost members an
2714 additional \$11 million or 25 percent of your annual fuel
2715 budget. With such a significant increase to your operating

2716 budget, how much of that cost would be passed on to the users
2717 in the form of rate increases?

2718 Mr. {Hopkins.} All of that money would be passed along
2719 to our rate payers and our members.

2720 Mr. {Pitts.} Mr. Baird, you quoted the president's
2721 recent executive order in which he said he is firming
2722 committed to eliminating excessive and unjustified burdens on
2723 small businesses and to ensure that regulations are designed
2724 with careful consideration of their effects.

2725 In your view, is the regulation that you testified about
2726 today an excessive and unjustified burden?

2727 Mr. {Baird.} Yes, sir, but to be fair to EPA, it is a
2728 program that is developing. It is not an actual regulation
2729 yet, but, yes, it would certainly be excessive and
2730 burdensome.

2731 Mr. {Pitts.} Do you think it was designed with careful
2732 consideration as to its effects on you?

2733 Mr. {Baird.} I do not, sir.

2734 Mr. {Pitts.} Are you hopeful that this administration
2735 will cancel it?

2736 Mr. {Baird.} I am. I am actually very hopeful that
2737 once there is light placed on this and people understand this
2738 is truly just a duplication of something that is already
2739 addressed on federal lands, by the BLM or the Forest Service,

2740 I think we will get this taken care of but the earlier the
2741 better.

2742 Mr. {Pitts.} Mr. Hopkins, what is your opinion on that?

2743 Are you hopeful that--

2744 Mr. {Hopkins.} That doesn't apply to our business.

2745 Mr. {Pitts.} Okay.

2746 Mr. {Hopkins.} Federal lands.

2747 Mr. {Pitts.} What about Ms. Kinter?

2748 Ms. {Kinter.} I am sorry. Could you repeat the
2749 question again?

2750 Mr. {Pitts.} Yes, are you hopeful that the
2751 administration, this administration, will cancel it?

2752 Ms. {Kinter.} Yes, very hopeful, sir.

2753 Mr. {Pitts.} Okay, Ms. Kinter, you believe that this
2754 new regulatory burden on your small main street printing
2755 business will not increase environmental protection. Then
2756 why, in your opinion, is EPA persisting with it?

2757 Ms. {Kinter.} We really don't know. That is a very
2758 good question. We were very surprised to learn that our
2759 recycling products that our members are sending out the door
2760 for legitimate recycling are now considered chemical
2761 feedstock for new chemicals. And so we are not really quite
2762 sure what their rationale is behind the adoption of this
2763 interpretation of byproduct.

2764 Mr. {Pitts.} Ms. Neu, you testified that cutting EPA
2765 funding to do its work will hurt our businesses and our
2766 economy more generally is the quote. Do you believe it is
2767 government's job more broadly to create economic winners and
2768 losers?

2769 Ms. {Neu.} Well, I think by virtue of any action, we
2770 are creating winners and losers, and I fear that any
2771 significant cutbacks in EPA will result in very little or no
2772 enforcement, which is something that really is of great
2773 concern to us. That is what levels the playing field. It is
2774 not necessarily new rules, new regulations. It is sometimes
2775 just a matter of enforcing existing rules and regulations
2776 across the board.

2777 Mr. {Pitts.} Since your business model is based upon
2778 investment, does out-of-control spending by the federal
2779 government hurt your access to capital?

2780 Ms. {Neu.} Well, I am not sure that I am in a position
2781 to answer that question, but I must say that I think that
2782 access to capital is a serious concern today for many
2783 businesses. And so I would have to agree with you on that.

2784 Mr. {Pitts.} Thank you, Mr. Chairman.

2785 Mr. {Shimkus.} Gentleman's time has expired. Chair now
2786 recognizes the gentleman from North Carolina, Mr.
2787 Butterfield, for 5 minutes.

2788 Mr. {Butterfield.} Thank you very much, Mr. Chairman,
2789 and thank all of the witnesses for your testimony today. Mr.
2790 Chairman, I have been looking forward to working with you. I
2791 have joined this committee voluntarily because I think we
2792 need a better conversation in this country about
2793 environmental policy. As we talk about deficit reduction and
2794 other great issues facing our country, we cannot lose sight
2795 on this important issue.

2796 To protect the environment, we must have rules. There
2797 is no question about that. We must have not unreasonable
2798 rules, but we must have what I call common sense rules.
2799 History has clearly demonstrated that the American economy
2800 has thrived, has actually thrived under common sense rules
2801 that protect our environment.

2802 Since the establishment of the Clean Air Act in 1970,
2803 GDP has grown by more than 200 percent. If anything, the
2804 major economic stumbles have been caused by unsustainable
2805 bubbles created by unchecked bad players and a lack of clear
2806 and enforceable boundaries, not by common sense rules that
2807 seek to preserve our air, water, and quality of life.

2808 And so I support the president's environmental goals,
2809 and I support the Environmental Protection Agency. And I
2810 look forward to a good robust debate as we continue this
2811 process.

2812 Let me address in the time that I have remaining very
2813 briefly to Mr. Baird. Mr. Baird, I am told by my staff that
2814 according to EPA, the hard rock mining industry has
2815 contaminated 3,400 miles of streams and 440,000 acres of
2816 land. Does that seem to be a true statement?

2817 Mr. {Baird.} I honestly have no idea what those numbers
2818 are based on.

2819 Mr. {Butterfield.} Well, the EPA, and I am depending on
2820 this data, it says that 3,400 miles of streams and 440,000
2821 acres of land have been contaminated. Would you agree that
2822 contamination from hard rock mining should be prevented, or
2823 if it--

2824 Mr. {Baird.} Yes, sir.

2825 Mr. {Butterfield.} --occurs, it needs to be cleaned up?

2826 Mr. {Baird.} Yes, sir, absolutely, but most of what
2827 they are talking about there are historic practices that have
2828 not been used in many, many years.

2829 Mr. {Butterfield.} I am also told that the federal
2830 government has spent \$2.5 billion over the last 10 years
2831 cleaning up abandoned hard rock mines. Would you agree or
2832 disagree?

2833 Mr. {Baird.} That is probably true. Again of historic
2834 operations using practices that are no longer used anymore
2835 and could not be done without permitting, without bonding,

2836 without all of the issues.

2837 Mr. {Butterfield.} Well, \$2.5 billion is a lot of
2838 money. Do you think it is appropriate for the taxpayers to
2839 be on the hook to clean up contamination caused by mining?

2840 Mr. {Baird.} No, sir.

2841 Mr. {Butterfield.} So you think it should be the
2842 responsibility of the effected industry to do the cleanup?

2843 Mr. {Baird.} Of the PRP, of the people who caused it?
2844 Yes, sir, I do.

2845 Mr. {Butterfield.} All right, Mr. Chairman, I yield
2846 back.

2847 Mr. {Shimkus.} Gentleman yields back. The chair now
2848 recognizes the gentleman from New Hampshire, Mr. Bass, for 5
2849 minutes.

2850 Mr. {Bass.} Thank you, Mr. Chairman. I want to thank
2851 you and the ranking member for calling this very interesting
2852 panel, interesting in that we are not really being presented
2853 with conflicting stories here. There are solutions available
2854 to all three of the matters that are brought up by the three
2855 witnesses who testified as to problems that they have with
2856 respect to redundancy and regulation, overly burdensome
2857 regulation, and unnecessary regulation, I guess we would say
2858 in the case of the fly ash issue.

2859 And I would hope that the subcommittee could move

2860 forward with some sort of action with the EPA to correct all
2861 three of these issues, and there may be a dozen or so more
2862 that exist that we ought to be looking into.

2863 I also appreciate Mr. Ryan's testimony about the
2864 critical nature that EPA--critical role, rather, that EPA has
2865 played since its inception in the early '70s to protect human
2866 lives, the reduce the instances of environmentally caused
2867 illnesses, and to create, in many instances, a reasonable
2868 balance between unfettered industrial expansion and
2869 overregulation. But there are instances where it hasn't
2870 worked out, and we have seen three examples of that today.

2871 So although I do not have any specific questions for any
2872 of you, I believe that the testimony is pretty clear that we
2873 don't need to double regulate hard rock mining on federal
2874 lands, that fly ash from coal plants is an important
2875 recyclable commodity, that there ought to be some reasonable
2876 review of recycling of materials that have already been
2877 properly qualified as certified, that we need some sort of a
2878 debate over a federal standard for e-waste, and that an area
2879 where there is a heavy industrial development, that there
2880 needs to be very careful monitoring.

2881 And I guess I would suggest that this has been
2882 informative and interesting, but it needs to be followed up
2883 by some action on the part of this subcommittee to correct

2884 these problems that can be agreed to in a bipartisan manner,
2885 and we can get that legislation moving. And I want to
2886 commend the chairman again for having this subcommittee
2887 meeting because we should have another one next week or two
2888 weeks from now, bring in three more people that are having
2889 issues. And that is how we correct these problems before
2890 they are uncorrectable.

2891 So with that, I will yield back to the chair.

2892 Mr. {Shimkus.} Gentleman yields back his time, and just
2893 in response, I think the gentleman from New Hampshire raises
2894 a great issue. Again the intent of today's hearing was to
2895 address problems, and really if you are just having hearing
2896 to identify good and bad on both sides, and then ways that
2897 you can address, in essence, duplication or maybe things that
2898 are designed or stated as hazardous that aren't hazardous and
2899 trying to get clarification.

2900 I would encourage my colleagues on both sides of the
2901 aisle as they go throughout their districts and meet with
2902 constituencies to raise concerns, and we could very well
2903 continue on this as we try to craft legislation to address
2904 these concerns.

2905 I would now like to recognize--

2906 Mr. {Green.} If you would just yield.

2907 Mr. {Shimkus.} I yield.

2908 Mr. {Green.} And I agree. In fact, that is what we
2909 were talking here. Maybe our committee on these three cases,
2910 and frankly we do this kind of work in our offices all the
2911 time with our constituents. But I think it would be much
2912 better if it showed--sitting down with EPA and the various
2913 agencies, saying the federal government ought to speak with
2914 one voice, and don't give us two hoops to jump through when
2915 you can do one, particularly when we need the power, we need
2916 the cobalt. And obviously we believe in freedom of speech,
2917 we need printed material.

2918 But I think that can then--I am really--the chairman and
2919 I will work with the members on both sides to see if we can
2920 do some problem solving.

2921 Mr. {Shimkus.} And now I would like to yield to Mr.
2922 Harper from Mississippi for 5 minutes.

2923 Mr. {Harper.} Thank you, Mr. Chairman, and I appreciate
2924 everyone taking time to be here and shed some light on what
2925 has become a very difficult issue for us, and that is the
2926 balance of regulation and how to do this in a way that it
2927 still allows business to do its job. And I can't think of an
2928 industry or business in my district that believes that they
2929 are under-regulated, whether that is on the State or federal
2930 level.

2931 We have a clean coal plant that is being built in east

2932 Mississippi in my district that will sequester the carbon and
2933 use that for tertiary recovery in wells. And so, you know,
2934 we have some things that are going on that I think are very
2935 important to look at it.

2936 And, Mr. Hopkins, I understand that in another life you
2937 were perhaps an environmental regulator at the State level.
2938 Is that correct?

2939 Mr. {Hopkins.} Yes, sir, that is correct. I was a
2940 field engineer for the Illinois EPA for 6 years, and I was
2941 the regional manager for the land division of Illinois, yes.

2942 Mr. {Harper.} Well, you know, and with your expertise
2943 in that and what you are doing now in your business, what is
2944 the solution to the coal ash? What do you do? And you are
2945 not saying for it to be unregulated. What is a common sense
2946 approach that will work?

2947 Mr. {Hopkins.} Well, sir, I think the congressman from
2948 North Carolina hit the nail on the head. What we need is
2949 reasonable regulations. We don't need to go overboard and
2950 cause products like coal ash to become a hazardous waste when
2951 they could be recycled beneficially.

2952 Mr. {Harper.} Ms. Kinter, I had a question. Why do you
2953 think that the EPA is reaching the conclusion that you are a
2954 chemical manufacturer subject to inventory update rule? How
2955 did they get there?

2956 Ms. {Kinter.} I think when they look at the fact that
2957 we recycle chemicals, and then when you look at what happens
2958 with the chemicals similar to what we have heard with the
2959 coal ash where they are actually manufactured into new
2960 products, and which is the beneficial reuse where you want to
2961 encourage your industry to actually, rather than dispose of
2962 it as a hazardous waste, to look for ways to reuse that
2963 product.

2964 Then they look at it as we are gaining a commercial
2965 benefit somehow from that, but in all my discussions with my
2966 members about well, do you gain a commercial benefit from
2967 doing this? They go no, we have the pleasure of paying for
2968 them to take it off our hands, and it is, you know, it is
2969 made into whatever the recycling facility does with it. But
2970 we don't receive any monetary remuneration for recycling our
2971 chemicals. It is we actually pay someone else to take them
2972 offsite and to the recycling facility.

2973 Mr. {Harper.} So what should happen?

2974 Ms. {Kinter.} I think what should happen basically is
2975 that they, U.S. EPA withdraws its interpretation that
2976 product manufacturers who happen to recycle are subject to
2977 the TASKA IUR update reporting. It is as simple as that. I
2978 believe the information is captured by TRI as well as a lot
2979 of the other state reporting mechanisms.

2980 Mr. {Harper.} You know I would be curious to know your
2981 members' experience with involved reporting requirements like
2982 those under Europe's chemical registration and management law
2983 known as Reach. Has the economic burden forced them to
2984 consider closing or relocating? And what impact has that
2985 really had?

2986 Ms. {Kinter.} That is an interesting question. I have
2987 started to look into that, and I can provide you more
2988 information once I have a fuller picture. But what we are
2989 seeing is that those chemical manufacturers over in Europe
2990 that are supplying what we could consider a specialty
2991 chemical are, in fact, having to cease production because of
2992 the costs associated with the Reach registration. It is a
2993 very interesting dilemma over there.

2994 But I would be happy to provide you with more details as
2995 they become clearer to me.

2996 Mr. {Harper.} Thank you, Ms. Kinter. Question that I
2997 have on the hard rock mines because we get a lot of rare
2998 materials that are needed for many items from that. Is there
2999 a concern or risk that we are not going to have access to
3000 those in the future?

3001 Mr. {Baird.} That is absolutely true. I forget who on
3002 the committee brought up the rare earths is a critical matter
3003 followed only then by super alloy cobalt in terms of making

3004 sure that we have enough, and it is not in such limited
3005 supply that the price ends up being cost prohibitive for use
3006 in all the manufacturing products that we need.

3007 Mr. {Harper.} Yield back.

3008 Mr. {Shimkus.} The gentleman yields back his time.

3009 Before I adjourn this hearing, I was struck by an article in
3010 ``The Wall Street Journal'' today that--and I have been
3011 following this recycled cooking oil from like McDonald's that
3012 has been used, people use it and they drive cars with it.
3013 And they clean it up.

3014 Well, the story at the end of the article, here is a guy
3015 quoting ``if I go to Costco, I can buy a pallet of vegetable
3016 oil'' note to Mr. Sobovaro, one of Colorado greaser on the
3017 legal fight ``explain to my why that it is considered a
3018 hazardous material if it is touches a chicken wing.''

3019 So, you know, that is really the issue. Here you have a
3020 guy who is taking recycled oil to drive a vehicle, and it is
3021 just oil, it is just cooking oil. And if bought the same
3022 amount of oil at bulk, it is not a hazardous material, but if
3023 he takes it from a restaurant, and if he is using it from a
3024 restaurant, then it is not going into a landfill. Just I
3025 think that is the part of the issue of jobs, common sense,
3026 and bringing back some semblance of again common sense, which
3027 maybe we will move on legislation based upon a lot of the

3028 hearing here.

3029 We appreciate your time and your effort, thank you for
3030 that. And I will say the hearing is adjourned.

3031 [Whereupon, at 4:26 p.m., the Subcommittee was
3032 adjourned.]