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HEARING ON AMERICAN SMALL BUSINESSES' PERSPECTIVES ON
ENVIRONMENTAL PROTECTION AGENCY REGULATORY ACTIONS

Tuesday, April 12, 2016

United States Senate

Committee on Environment and Public Works

Subcommittee on Superfund, Waste Management, and Regulatory
Oversight

Washington, D.C.

The subcommittee met, pursuant to notice, at 2:31 p.m. in
room 406, Dirksen Senate Office Building, the Honorable Mike
Rounds [chairman of the subcommittee] presiding.

Present: Senators Rounds, Markey, Boozman, Inhofe and
Booker.

STATEMENT OF THE HONORABLE MIKE ROUNDS, A UNITED STATES SENATOR
FROM THE STATE OF SOUTH DAKOTA

Senator Rounds. Good afternoon, everyone. The Environment and Public Works Subcommittee on Superfund, Waste Management, and Regulatory Oversight is meeting today to conduct a hearing on American Small Businesses' Perspectives on Environmental Protection Agency Regulatory Actions.

The purpose of the hearing is to further this Subcommittee's oversight of EPA's rulemaking process. We have already held hearings examining the science advisory process underpinning EPA's regulatory action, the sue-and-settle agreements that result in new EPA regulations, and the EPA's approach to economic analysis used to justify regulations.

This hearing will examine EPA's consideration of small businesses in its rulemaking process and the real-world impacts of EPA regulation from the perspective of regulatory experts and small business owners.

America's small businesses are the backbone of the U.S. economy. The 28 million small businesses in the United States provide 55 percent of all American jobs and make up 99.7 percent of U.S. employer firms.

The ability to build a small business from the ground up is a cornerstone of the American dream. Small businesses are able to flourish in our Country. They provide jobs for millions of

Americans and account for 54 percent of all United States sales. Unfortunately, despite their success, American small businesses are hindered by approximately 3,000 current and pending regulations that will impact small businesses and cost \$1.75 trillion annually in compliance costs.

The Environmental Protection Agency imposes some of the most significant and far-reaching regulatory burdens on small businesses. According to the Small Business Administration, EPA regulations cost small businesses 364 percent more to comply than large businesses. For example, EPA's greenhouse gas reporting rule is estimated to be 65 times more burdensome for small businesses than larger entities.

American small businesses are burdened with sweeping EPA regulations and provided few resources to aid them in complying with a myriad of confusing and costly regulations. In a recent study, 90 percent of respondents identified government regulations as a challenge affecting their business.

Mindful of the disproportionate impacts Federal regulations could have on small businesses, Congress passed the Regulatory Flexibility Act, or RFA, in 1980, which requires Federal agencies to analyze how their regulations will impact small businesses and consider less burdensome alternatives. The RFA requires agencies to convene a small business advocacy review

panel to receive input from small business representatives before a proposed rule is issued.

However, the Government Accountability Office and others have found that the RFA does not define a number of key terms and the courts have done little to clarify these terms.

Additionally, while courts have held agencies are not required under the RFA to analyze the effect of a regulation on small businesses if the regulation only indirectly impacts small businesses, agencies are still bound by executive orders to consider a regulation's impact on these businesses. Yet, the EPA claims major environmental regulations, such as revisions to the National Ambient Air Quality Standards, or NAAQS, will have no significant impact on small businesses because NAAQS standards apply directly to States, not small businesses. However, these regulations will lead to significant economic harm on small businesses.

Further, the EPA has improperly certified that major regulations imposed by the Obama Administration, such as the Waters of the U.S. Rule and the Clean Power Plan, will not have significant impacts on U.S. small businesses. However, the independent Small Business Administration's Office of Advocacy, the government agency tasked with providing support and resources to small businesses, expressed concerns over each of these rules, even going so far as to urge the EPA to withdraw

the expansive Waters of the U.S. Rule due to concerns regarding the costly impact the rule will have on small businesses.

The office of Advocacy also pointed out particular challenges that would be faced by small businesses in complying with the EPA's proposed Federal compliance plan for the Clean Power Plan and how it would impact small businesses.

American small businesses provide jobs, products, and services for millions of Americans. We must recognize the unique characteristics and challenges faced by this vital segment of the U.S. economy so that businesses are able to thrive and grow, rather than be burdened by complex, overreaching EPA regulations that run contrary to the original intent of Congress.

I would like to thank our witnesses for being with us here today and I look forward to hearing your testimony.

Now I would like to recognize my friend, Senator Markey, for a five minute opening statement. Senator Markey?

[The prepared statement of Senator Rounds follows:]

STATEMENT OF THE HONORABLE EDWARD J. MARKEY, A UNITED STATES
SENATOR FROM THE STATE OF MASSACHUSETTS

Senator Markey. Thank you, Chairman Rounds. Thank you, Chairman Inhofe for having this very important hearing today.

And I am very delighted that Dr. Emily Reichert of Greentown Labs in Somerville, Massachusetts, is with us today, and Frank Knapp, the President and CEO of the South Carolina Small Business Chamber of Commerce and Co-Chair of the American Sustainable Business Council, are able to join us today.

I had the opportunity to visit Greentown Labs with Dr. Reichert and EPA Administrator Gina McCarthy in the fall. Dr. Reichert and the work she is leading at Greentown Labs has helped make Massachusetts a clean energy innovation hub.

Frank Knapp has been a leader of the South Carolina Small Business Chamber of Commerce and an advocate for American small businesses and their employees across the Nation.

I look forward to hearing from both of them and the other witnesses.

Today's hearing will examine the impact on small businesses of EPA's efforts to protect public health and the Nation's water and air. Massachusetts is the home to over 620,000 small businesses that employ 1.4 million people, or over 46 percent of our workforce. In Massachusetts, we understand that a healthy environment is key to a healthy economy. Where some might see

government overreach, our entrepreneurs see opportunity to develop new technology and to create new jobs.

We know that by cutting carbon pollution we can grow our economy and save American families money. It is a formula that works. We did it in Massachusetts through the Regional Greenhouse Gas Initiative.

Since the Regional Greenhouse Gas program went into effect in 2009, the program has added almost \$3 billion in economic value to participating States and saved consumers more than \$1.5 billion. This formula is at the heart of the Clean Power Plan.

The Clean Power Plan will create jobs and grow our economy. It is a signal to the marketplace to invest in clean energy. Today, more than 2.5 million Americans are employed in clean energy, and this February the Solar Foundation released a report showing that sunny Massachusetts is second in the Nation in total solar workers.

Massachusetts now has nearly 100,000 clean energy jobs in our State. It is now in the top 10 in terms of sectors for employment, up from non-existence for all intents and purposes 10 to 15 years ago. Protecting the climate and public health by investing in clean energy sector is fueling small business entrepreneurs and innovators across the Country.

The same is true when it comes to clean water. Sensible regulations protect our beaches, our waterways, our drinking

water, and our economy. In Massachusetts, we love that Dirty Water, the Standells, but understand that tourism, recreation, agriculture, and other economic engines of growth in Massachusetts need clean water in order to flourish.

For over 40 years the Clean Water Act has played an integral role in the protection and cleanup of America's most iconic and important waterways, and we must continue that effort. It helped clean up the Charles River and Boston Harbor, and today a cleaner Boston Harbor is helping revive waterfront development, create jobs, and grow our economy dramatically.

The Clean Water Rule is smart and sensible, and has the support of business leaders. Last year, 300 small businesses, including several in Massachusetts, wrote a letter to President Obama in support of the new rule. What small businesses, entrepreneurs, innovators, and government are doing in my home State of Massachusetts can serve as a model for the rest of our Nation, demonstrating that growing our economy and protecting our environment go hand in hand.

Because small businesses play such an important part in our economic vitality, Congress has directed agencies to incorporate the impact of their regulations on small businesses. EPA takes their responsibilities to incorporating small businesses' concerns very seriously. For example, their recently finalized Petroleum Refineries Rule was only applied to major refineries.

Small refineries were excluded, one of the suggestions made by the Small Business Administration's Office of Advocacy.

I look forward to working with my colleagues to ensure that EPA and the Small Business Administration get the resources they need so that the views of small businesses continue to be incorporated into the rulemaking process.

Again, Mr. Chairman, thank you for holding this hearing, and I am looking forward to hearing from our witnesses.

[The prepared statement of Senator Markey follows:]

Senator Rounds. Thank you, Senator Markey.

We are also pleased to have the chairman of the full Committee here with us, Senator Inhofe. Senator Inhofe, thank you and welcome.

STATEMENT OF THE HONORABLE JAMES M. INHOFE, A UNITED STATES
SENATOR FROM THE STATE OF OKLAHOMA

Senator Inhofe. Thank you. I have imposed upon Chairman Rounds and Senator Markey to allow me to make a couple of comments, even though this is a subcommittee hearing. And at the appropriate time I want to introduce one of our witnesses, as we do for all the witnesses that come along.

Just two quick stories. One is my poetic justice story. And by the way, you are looking up here at a panel of really diverse philosophies. I consider Senator Markey one of my closest personal friends, and I have even back when we were serving in the House together. Yet, you won't find two Senators who are farther apart philosophically than the two of us. So you will enjoy this story.

For 20 years I was in the real world and I was being abused by the bureaucracy, and I can remember so often there I was down there building and developing. Most of this was in the coast in Texas. And toward the end of it, I thought, who would be opposed? Why am I getting harassed by the bureaucracy? Here I am expanding the tax base, doing things that Americans are supposed to do; hire people, making fortunes, losing fortunes, and all that. So why is it that the Federal Government is the chief opposition to everything I am trying to do?

Well, the poetic justice part of it is I now chair the committee that has jurisdiction over the bureaucracy that tried to put me out of business for 20 years.

[Laughter.]

Senator Inhofe. The other thing I want to remind both of my good friends up here, Senator Rounds and Senator Markey, is that I was mayor of Tulsa in 1980 and I was in the middle of drafting this bill at the time. I was pretty naïve and I thought, well, that takes care of all the problems of costing businesses and all that. It didn't quite work, but we tried.

That is my statement.

[The prepared statement of Senator Inhofe follows:]

Senator Rounds. Thank you, Mr. Chairman.

Senator Markey. May I just say to Chairman Inhofe I was an original co-sponsor of that bill in 1980.

Senator Inhofe. That was one of our early successes. Maybe our only success.

[Laughter.]

Senator Rounds. I had just bought my first home in 1980.

[Laughter.]

Senator Rounds. Thank you.

Our witnesses joining us for today's hearing are Mr. Michael Canty, President and CEO, Alloy Bellows & Precision Welding, Inc.; Tom Buchanan, President, Oklahoma Farm Bureau Federation; Thomas M. Sullivan, Of Counsel, Nelson Mullins Riley & Scarborough; Mr. Frank Knapp Jr., President and CEO of South Carolina Small Business Chamber of Commerce; and Dr. Emily Reichert, CEO, Greentown Labs.

Now we will turn to our first witness, Mr. Michael Canty, for five minutes.

Mr. Canty, you may begin your opening statement, and welcome.

STATEMENT OF MICHAEL CANTY, PRESIDENT AND CEO, ALLOY BELLOWS &
PRECISION WELDING, INC.

Mr. Canty. Thank you. Good afternoon. I want to thank Subcommittee Chairman Rounds and Ranking Member Senator Markey, and all of the Subcommittee members for allowing me the opportunity to share my perspectives on the impact of EPA regulatory actions on small business.

My name is Michael Canty. I have been in the business world for 40 years. I own my own current company for about 10 years. I have about 135 employees with two manufacturing locations, up from 25 employees about 10 years ago. We sell primarily to the power generation, oil and gas, aerospace, and semiconductor industries.

I am proud to be here representing not only Alloy Bellows, but the National Small Business Association, NSBA. The NSBA represents 65,000 small business owners across every sector of this Country and it is a member-driven and staunchly nonpartisan organization, and I currently serve as an Associate Trustee.

I also have significant public service serving on a council, village council, and as mayor for eight years on various public service boards and councils and commissions, including over four years now on the CSI, or Common Sense Initiative, from Ohio initiated by the governor, John Kasich, to review all regulations being proposed by State agencies before

they become law, and all regulations every five years to sunset them if they become obsolete.

In recent years the EPA has an important job. However, the EPA is one of the most prolific regulatory agencies that exist, in my view. It has implemented a seemingly endless stream of rules and regulations, including the Waters of the U.S. and the Clean Power Act, which have significant negative impacts on small business. Small businesses want to help, but it is becoming increasingly difficult to do so.

Alloy Bellows was forced to hire a few years ago a senior level compliance officer just to keep up with the regulatory issues and stay in compliance. We spend well in excess of \$200,000 every year just to do that.

An OSHA inspector came in a surprise visit to our organization and her mentality to us kind of sums up many, not certainly all, but many of the Federal regulatory agencies. She fined us for a very, very minor infraction of an adjustable guard on a little-used manual grinder. It was up one-eighth of an inch too high, an issue that we fixed on the spot. We got a fine of thousands of dollars and she told me flat out that finding issues and issuing fines was how they help fund their department.

I decided I couldn't be more shocked at whether it was her candidness or angry at just the mindset of how she had to deal with things.

The cumulative effect on Federal regulations is pretty intense. I often hear from elected officials and agency staffers, this is just one more form and it only takes 22 minutes to fill out and submit. We must wonder if those same elected officials and staffers have ever worked at a growing manufacturing company, where resources are scarce, personnel are pressed with company needs, and nothing gets done either in isolation or in the 22 minutes they often say.

I want to thank Chairman Rounds for introducing the bipartisan RESTORE Resolution. This resolution would have an enormous impact on my small business and all businesses. And along those same lines, the NSBA strongly supports the National Regulatory Budget Act of 2014, introduced by Senator Marco Rubio. It is aimed to ensure fairness and common sense in the Federal regulatory processes. Regulatory compliance costs are disproportionately higher on small businesses and their large counterparts. Some of those issues were read during the opening statement.

In Ohio, the Common Sense Initiative, now State law thanks to Governor Kasich, was passed as a second bill. It requires all proposed State agencies to run their proposed regulations

through a cost-benefit review process and ensure that all affected stakeholders have input into the process. The numbers are impressive. The number of annually proposed regulations has dropped significantly as bad proposals get weeded out early and then through the process as well.

Some personal examples. Stormwater regulation. When I was a mayor in the early 2000, the Federal EPA passed the stormwater regulations requirements on every community to develop, monitor, and report annually on six key areas of water quality at every water area, every outflow in the community. The EPA mandates were vague and they were overreaching. The result was excessive, permanent, and annual taxpayer cost paid by both businesses and residents alike.

NORS: The Federal and State EPA imposed in Ohio certain regulatory and extensive requirements to control potential and real sewage overflows into Lake Erie during 500-year storms. To deal with this, the State of Ohio set up through State law multijurisdictional sewer districts to control and manage the problem. My business is located in one of those multijurisdictional districts. The district just imposed, and this isn't the first time, without oversight and without a vote, stormwater control fees, a permanent annual \$35 million fee, a 19.5 percent increase in their annual budget. Our firm's share was \$2,000 annually, every year, forever.

NORSRD also implemented an 11 percent to 13 percent increase in sewer fees for each of the next five years and stated that that annual increase would continue for the next 25, a 1,900 percent-plus increase paid for by business and residents alike. Our firm, with 135 employees, is moving in 2017, and we are moving out of the NORSRD district.

Our electric costs alone because of the input on coal and the shutting down of those plants has increased 35 percent on our company, an energy-intensive company over the last two years.

Senator Rounds. Sir, if you could, bring it to a close, okay?

Mr. Canty. I will sum up.

Senator Rounds. Thank you.

Mr. Canty. Over the last 10 years, our philosophy has been to make everything we sell. Ninety-five percent of everything we have sold is made in America, with American labor. That has to change. Next Sunday I leave for Poland and Berlin, and the first week of June for China to set up vendor relationships with companies due in large part to the ever-increasing and ever-costly increase cost of Federal regulations on small businesses like mine. That means fewer jobs, fewer investments, and fewer technologies in the U.S.

Again I want to thank Senator Rounds and Ranking Member Senator Markey for holding this hearing and allowing me to testify on behalf of NSBA. The need for relief is real and immediate. Thank you.

[The prepared statement of Mr. Canty follows:]

Senator Rounds. Thank you, Mr. Canty.

At this time I would ask if Senator Inhofe would care to introduce Mr. Buchanan.

Senator Inhofe. Okay. Well, first of all, we are very happy to have Tom Buchanan here. He has been a good friend for a long period of time. He has a cow-calf operation in Southwestern Oklahoma. He grows wheat and irrigated cotton. He is the Vice Chairman of the Oklahoma Water Resources Board and is President of the Oklahoma Farm Bureau, and, most important, a close friend.

Senator Rounds. Thank you.

Mr. Buchanan, you may begin your opening statement.

STATEMENT OF TOM BUCHANAN, PRESIDENT, OKLAHOMA FARM BUREAU
FEDERATION

Mr. Buchanan. Thank you, Senator Inhofe, for that introduction.

Chairman Inhofe, Subcommittee Chairman Rounds, and Minority Member Markey and members of the Committee, I appreciate this opportunity to testify on behalf of American Farm Bureau and this great Nation's farmers and ranchers.

My name is Tom Buchanan. I am President of the Oklahoma Farm Bureau and I serve on the Board of the American Farm Bureau Federation.

Chairman Rounds, it seems that 1980 is an important date for everyone on the Committee, including myself. While your esteemed colleagues started their professional career in 1980, so did I; 1980 is when I produced my first cotton crop and grew my first set of calves. So I have been trying to farm ever since that point.

I have attached two documents which I would like to request be included in the Committee's record for this hearing. I would also like to begin by expressing my gratitude to Chairman Inhofe for the Government Accountability Office's investigation into EPA's illegal lobbying and social media campaign.

From our perspective, EPA did use covert propoganda to mislead the public and violate the Anti-Lobbying Act, and was

more focused on promoting a flawed WOTUS Rule than keeping an open mind or hearing good-faith concerns with their proposal. Farmers and ranchers deserve better when important matters of public policy are discussed and are at stake.

I am here today because of my organization's experience with a major new Clean Water Act rulemaking by EPA and the Corps. This is a rule of extraordinary practical importance for farmers, ranchers, and almost anyone who grows, builds, or makes anything in this great Nation.

After carefully studying the proposed rule, we at Farm Bureau concluded that the rule's vague and broad language would define waters of the United States to include countless land areas that are common in and around farm fields and ranches across the countryside. These are acres that don't look a bit like water. They look like land and they are farmed and ranched today.

But by defining them as waters of the U.S., the rule would make it illegal to farm, build fences, cut trees, build a house, or do most anything else there without first asking permission of the Federal Government and navigating a costly and complex permitting process.

From the day it first issued the proposed rule, EPA behaved like an advocate for a decision that was already made, willing to say most anything to get the desired result. It waged a

public relations campaign aimed directly at farmers and ranchers, providing false and misleading assurances in speeches and blogs that the rule will not increase permitting requirements for farmers or get in the way of farming. Our experience is that EPA and the Corps will interpret their rules broadly, not narrowly.

EPA also engaged in an extraordinary social media campaign aimed at a different audience, the broader public audience. That campaign consisted almost entirely of non-substantial platitudes about the importance of clean water, which, of course, no one disputes the need for clean water. It used simplistic blogs, tweets, and YouTube videos to generate purported support for the rule among well-intended people who have absolutely no idea what the rule would actually do or what its actual costs would be. EPA later claimed public support for the rule, even though the vast majority of those who actually read the rule, State and local governments, businesses and organizations representing virtually every segment of the U.S. economy, vehemently opposed it.

I would like to point out that the agencies also ignored another important regulatory safeguard for small businesses by improperly certifying the WOTUS rule under the Regulatory Flexibility Act. The Office of Advocacy concluded that the effects of EPA's WOTUS rule would have direct economic impacts

on a substantial number of small businesses, and the agency should have convened a small business advocacy review panel under the Small Business Regulatory Enforcement Fairness Act before releasing the rule for comment.

Congress should hold the agencies accountable for ignoring the requirements of the RFA and for openly showing their contempt for small entities by characterizing their concerns about this proposal as silly and ludicrous.

Lastly, EPA should try to honestly and transparently account for the regulatory impact and cost of their actions, even when they expect opposition. I truly hope this Committee's efforts will lead us in that direction.

Thank you for the time and this opportunity.

[The prepared statement of Mr. Buchanan follows:]

Senator Rounds. Thank you for your testimony, Mr. Buchanan.

Our next witness is Mr. Thomas Sullivan.

Mr. Sullivan, you may begin.

STATEMENT OF THOMAS M. SULLIVAN, OF COUNSEL, NELSON MULLINS
RILEY & SCARBOROUGH LLP

Mr. Sullivan. Thank you, Mr. Chairman, members of the Subcommittee. I am pleased to present my views on how EPA rules impact small business. The bulk of my testimony will actually cover how small businesses impact EPA rules, or at least how the Reg Flex Act is designed to ensure that small business has a voice in the process.

Believe it or not, my first job in Washington was with the Environmental Protection Agency. I served under both Administrator Bill Reilly and Administrator Carol Browner. I then joined the National Federation of Independent Business, NFIB. One of my proudest professional experiences was working on NFIB's campaign working with this Committee to prevent small business from being sued under the Superfund law just because they sent household garbage to their local landfill. It was the story of Barbara Williams of Gettysburg, Pennsylvania, who I was honored to be with when President George W. Bush signed the Small Business Superfund bill in January of 2002.

Later that month I was unanimously confirmed to head the Office of Advocacy that we have already discussed this afternoon at the SBA. The Office of Advocacy is responsible for overseeing the Regulatory Flexibility Act. I served there as Chief Counsel for Advocacy until 2008. During my tenure, that

office issued approximately 300 public comment letters to 68 agencies, averaging about 38 letters to agencies per year.

I have remained deeply interested in how small businesses are impacted by regulation and how small business involvement in the decision-making can benefit regulatory policy.

The rationale for passage of the Regulatory Flexibility Act still exists today. That rationale is based on the critical role small businesses play in our economy and an understanding of how small firms are disproportionately impacted by regulation. Recent data show that small firms create almost two-thirds of the net new jobs in this Country, and we will hear later in the panel how small businesses lead America's innovation economy. Studies from the Office of Advocacy show that small firms produce 16 times the number of patents per employee than their larger business competitors.

At the same time, research show that over \$2 trillion cost of Federal regulation hits small businesses the hardest. Small businesses with fewer than 50 employees shoulder \$11,724 per employee per year to keep up with regulatory mandates. That cost is more than twice the cost of healthcare at a per-employee basis. Plus, the cost for the small firms are 29 percent higher per employee than for firms with 100 or more employees.

Those are the reasons that led to the enactment of the Regulatory Flexibility Act in 1980.

There has been extensive research about the success and failures of the Regulatory Flexibility Act, and I would actually just like to get into some of the good news and bad news about how it is being implemented.

The good news is that EPA actually does work with the Office of Advocacy and hosts SBREFA brief to explore how the Agency can sensitize its approach to small business. It is encouraging to know that EPA holds pre-panel sessions before the SBREFA panels actually start in order to think through issues that they may not have anticipated in developing a rulemaking.

The bad news is that there are still times when EPA's deadlines, whether they are judicial, statutory, or political, push the careerists to approach the Regulatory Flexibility Act as a set of bureaucratic procedural hurdles. The most obvious example of EPA purposely avoiding the Regulatory Flexibility Act, in my opinion, was its recent promulgations of the Waters of the U.S. Rule that Mr. Buchanan just outlined.

That troubling situation with EPA's promulgation of the Waters of the U.S. Rule leads people like me to try and figure out, how can it be improved. EPA's decision on whether to conduct a full examination of small business impacts is really a critical point in the rulemaking process. That certification part of the Reg Flex Act is truly the fork in the road when it comes to whether EPA should listen to small business or not. I

believe that Congress, the EPA, and the Office of Advocacy should consider ways in which EPA certification would benefit from an objective third party's judgment when the Office of Advocacy has an objection.

When agencies quarrel over their impact on the environment, the Council on Environmental Quality acts as an arbiter. Some thought should be given on whether a similar model could work for disagreements between the Office of Advocacy and EPA under the Regulatory Flexibility Act.

In my opinion, EPA makes its best decisions or, as Senator Markey said, sensible regulations when it decides to embrace the Regulatory Flexibility Act and treat its interaction with small business as a constructive dialogue where the Agency can meet its objectives while also minimizing burden on small business. It can work. I have seen it work. And I thank the Committee for taking the time to make sure it can work.

[The prepared statement of Mr. Sullivan follows:]

Senator Rounds. Thank you, Mr. Sullivan.

We will now hear from our next witness, Mr. Frank Knapp Jr.

Mr. Knapp, you may begin.

STATEMENT OF FRANK KNAPP JR., PRESIDENT AND CEO, SOUTH CAROLINA
SMALL BUSINESS CHAMBER OF COMMERCE

Mr. Knapp. Thank you, Chairman Rounds, Ranking Member Markey, and Chairman Inhofe. My name is Frank Knapp. I am the President of the South Carolina Small Business Chamber of Commerce, also the Board Co-Chair of the American Sustainable Business Council, with a network representing 200,000 businesses.

Today's hearing topic is important for small business and the vitality of our economy. Good regulations tend to stimulate innovation and entrepreneurship in addition to limiting or preventing destructive forms of economic activity. Bad regulations, whether because they are not designed properly or simply not needed, would be a burden on small businesses and thus harm our economy. Everyone here would prefer the former and not the latter.

However, even good regulations will have some negative impact on certain small businesses. The issue is does the positive economic, social, environmental, or health outcomes outweigh the negatives.

For example, well-constructed regulations that encourage alternative energy to reduce carbon dioxide emissions impede the use of fossil fuels, which reduces capital spending and jobs in the fossil fuel industries. However, alternative energy is much

more responsive to technology-driven innovation and, dollar-for-dollar, invested alternative energy stimulates much more employment than fossil fuels.

The issue today is, does the Environmental Protection Agency and the Federal Government's process of promulgating regulations adequately consider any negative on small businesses when developing a final regulation. Twelve years ago we addressed this issue in South Carolina. Back then, my organization worked with our State Chamber of Commerce and our State's NFIB to pass our Small Business Regulatory Act modeled after the Federal law.

A few years ago, the then-chairman to the Regulatory Review Committee told me that in seven years his committee had reviewed about 300 proposed regulations and identified only 10 that raised their concern. His committee worked with the State agencies promulgating these new regulations to satisfactorily amend the regulations to address unnecessary burdens on impacted small businesses.

The Regulatory Flexibility Act works in our State because we provide the all-volunteer committee the resources they need to do an effective job on newly proposed regulations, and there is the important point. If you want the regulatory process to be fair to all parties and you set up a mechanism to do that, it has to be adequately resourced.

Back on June 27th of 2012, I testified before the U.S. House Small Business Committee on this same subject. Mr. Keith Holman of the U.S. Chamber of Commerce was also testifying. I referred to Mr. Holman's filed written testimony in my testimony and here is what I said back then: "Mr. Holman correctly identifies one area where the EPA's compliance with the RFA can be improved: more resources for the rulemaking process. While there are voices we hear in Washington critical of the EPA and calls for cutting back or freezing the regulatory process, the reality is that it can work better for small businesses and the public if the EPA was better funded."

That testimony was almost four years ago. Yet here we are still talking about the EPA regulations and small businesses, as well as proposals to erode the operational capacity of regulatory agencies, instead of providing the proper resources for them to do the job Congress tasked them to do, to protect small businesses.

This month, ASBC, the American Sustainable Business Council, led a coalition of 25 business organizations, including the South Carolina Small Business Chamber, in filing an amicus brief with the D.C. Circuit Court of Appeals in support of the Clean Power Plan. The brief argues that unrestrained climate change will burden National, State, and local economies with increased costs and business disruptions from droughts,

flooding, reduced agriculture productivity, extreme weather, rising seas, and other disturbances. In addition, the report points out that the Clean Power Plan would boost economic growth by generating new market-based solutions and new jobs in renewable energy.

Small business also supports the intent of the Waters of the U.S. Polling commissioned by ASBC found that 92 percent of small business owners support regulations to protect our water and air, and that 80 percent supported the Waters of the U.S. rule.

Small businesses know that the risks of clean water disruptions are very real. In 2013, massive manure spills into clean water sources occurred in Wisconsin, threatening the dairy industry. In 2014, it was the Elk River chemical spill in West Virginia which cost the State's economy \$19 million a day.

When clean water resources are shut down, the economic burden falls on small businesses.

In conclusion, the regulation promulgating process can produce good rules while protecting small businesses from unnecessary burdens if we provide the resources for agencies to expeditiously carry out the requirements Congress has already put in place. But the Federal Government's responsibility to impacted small businesses shouldn't stop there. Some small businesses will find compliance with Federal regulations

difficult. The answer is not to throw the baby out with the bath water and invalidate existing rules. Instead, we believe the solution lies in expanding the capacity of the Federal Government to provide regulatory compliance assistance to small business.

Thank you for the opportunity to speak before you today. I welcome any questions the Committee may have.

[The prepared statement of Mr. Knapp follows:]

Senator Rounds. Thank you, Mr. Knapp.

And now, to introduce our next witness, I would ask Ranking Member Markey to do the honors.

Senator Markey. Thank you, Mr. Chairman, very much.

We are very honored to have Dr. Reichert here with us today. Her office, her operation is in Somerville, Massachusetts. It is like equidistant from Tufts, Harvard, MIT, Boston University, all of these 250,000 students all within like a three or four mile radius of where she has set up this incredible Greentown Laboratories; and she now has dozens of start-up companies all trying to capture this incredible green energy revolution, job-creating, a millionaire-making clean energy revolution, and it is our honor to have you here, Doctor.

Senator Rounds. Welcome, Doctor, and you may begin.

STATEMENT OF EMILY REICHERT, CEO, GREENTOWN LABS

Ms. Reichert. All right. Thank you, Chairman Rounds, Ranking Member Markey, and Senator Inhofe, for giving me the opportunity to testify on the impacts of EPA's regulations on American small businesses. My name, as Senator Markey just said, is Dr. Emily Reichert, CEO of Greentown Labs. We are the largest clean technology incubator in the Country, located in Somerville, Massachusetts with 40,000 square feet of space used to enable entrepreneurs to solve the world's biggest energy and environmental challenges.

The mission of Greentown Labs is to enable a vibrant community of entrepreneurs to work on their visions and to provide access to space, resources, and funding that allows their early stage companies to thrive.

We offer roughly 25,000 square foot of prototyping lab along with co-located office space, a shared machine shop and electronics shop, immersion in a growing community of clean technology entrepreneurs, onsite events and programs designed to help small businesses rapidly grow their networks and their companies.

Greentown Labs was started in 2011 by four startup companies who needed inexpensive space to build prototypes. Back in 2011, our operating budget was just \$99,000 a year, covering rent and shared supplies for four companies without any

Government assistance of any kind. It was a grassroots initiative.

Five years later, in 2015, Greentown Labs was home to over 40 companies, operating as a for-profit small business with a business of \$2.1 million and six full-time employees.

Overall, in 2015, 83 percent of our budget was privately funded in the form of members paying rent and large corporate entities sponsoring our programming and activities because they want access to the innovation coming out of Greentown Labs. Only 17 percent of our operating budget was from public sources, 2 percent of which was from Federal grants, a \$50,000 grant from the Small Business Administration for one of our programs.

In total, we have now supported 103 small businesses since our founding in 2011. In a recent survey of our alumni has shown that 86 percent of them continue to grow today, the majority of these in Massachusetts, but others have relocated to Texas, Colorado, California, and Wisconsin and continue to grow their businesses in these States.

Greentown Labs tries hard to quantify the impact our companies have on our community. Today, 50 member companies call Greentown Labs home. Greentown Labs companies employ more than 400 people and provide nearly 300 indirect jobs as well. These companies and our alumni have raised more than \$180 million in both public and private funding, and in

Massachusetts. This is all happening in one of the most heavily regulated States in the Country.

Since being elected, Governor Charlie Baker has undertaken a review of State regulations. We now know that we have over 1,600 regulations that companies have to deal with to do business in the State. Many of these are the State's interpretation of Federal standards. But, like in many other States, in Massachusetts Federal rules act as the floor, particularly when it comes to environmental regulations.

Over the last nine years, Massachusetts has enacted a number of laws that increase our State's investment in renewable energy, clean technology deployment, and business regulations regarding these matters. It has also led to over 1 gigawatt of installed renewable energy capacity in Massachusetts as of 2015.

Over the same timeframe, Massachusetts has also grown to be one of the leading States in innovation, home to thousands of startup companies, small businesses. According to the Massachusetts Clean Energy Center, a quasi-State government agency who issues an annual report on the clean energy industry and is now considered the gold standard whose methodology is used in 10 other States, job growth in the State's clean energy sector continues to grow by double digits every year since 2010, 11.9 percent in 2015 alone, which represents 10,500 new jobs.

For the purpose of this hearing, though, I want to share some specific examples of how companies at Greentown Labs incubator are creating new innovative products that benefit from some of the regulations passed and under consideration by the EPA.

In April 2012, the EPA put into effect regulations under the Clean Water Act to limit water pollution from aircraft and airport runway de-icing operations. In response to this, a young company in our incubator is developing a new electric-based plane wing de-icing method that will not only help airlines comply with this regulation, but will also help airlines save time and money on the runway and potentially remove all glycol, a toxic substance, from the de-icing of planes.

I mentioned another company in my written testimony that has benefitted from the Clean Air Act. They help landfill owners to better monitor and utilize methane gas, allowing the owner to make money while reducing emissions of methane, a greenhouse gas with a much greater impact, 25 times more, than carbon dioxide.

Across the Country, new companies like Greentown, the two Greentown startups I have mentioned are popping up every day. We see them in places from L.A. to New York City, to Oregon, to Texas, Chicago, Detroit, even Hawaii.

I know that many of the people on this panel with me believe that environmental regulations cause an unnecessary burden to small businesses, but I, in my experience, have not seen that. Instead, I have observed EPA regulations to be a catalyst for new business ideas and new innovative products. And as this Committee continues to review the impacts of EPA regulations on small businesses, I hope you will keep the experience of Massachusetts and Greentown Labs in mind.

Creating regulations that can help promote a cleaner and more efficient environment can also lead to job growth and create innumerable opportunities for new businesses.

Thank you again for inviting me here today and for the opportunity to speak on such an important issue.

[The prepared statement of Ms. Reichert follows:]

Senator Rounds. Dr. Reichert, thank you for your testimony.

Senators will now have five minutes each for questions. I will begin the questioning.

Mr. Canty, in your testimony you discuss the Small Business Advisory Council that you are a member of. When I was working as a governor in South Dakota, we had a similar panel that would regularly review State regulations. We referred it to as the Rules Review Committee. There are 41 States that have a similar plan in place. Can you tell us the benefits of having a stakeholder panel review regulations and, in particular, how this panel helps ease the regulatory burden for small businesses?

Mr. Canty. Thank you, Mr. Chairman. Yes, I have served on this committee for four and a half years, since its inception. What we find is that, first, when all stakeholders get around and are required to be around the formation of new policies, proposed policies for organizations, it becomes much more balanced. They begin to understand the needs and the costs better than what they might have been before. And, with all good intentions, proposals that aren't quite so solid get weeded out very early in the process or get modified.

There are, the first year, as you might expect, a significant reduction of proposed policies being reduced, but

right now it has settled into about 25 or 30 percent fewer agency proposals being done. But far more important, when those policies do get through and get passed, they are better, they are more solid, they are more business-friendly, and they are accepted by everyone around the table because they all had a stake in it and they are much more friendly to the business community.

Senator Rounds. Thank you.

Mr. Buchanan, many farm families and ranches will be impacted by the Waters of the U.S. Rule. These are small family-owned, and in some cases the land and the farm has been passed down through family to family, generation after generation. Do you believe the EPA adequately took the unique characteristics of these family farms and family-owned agricultural operations into consideration when promulgating the WOTUS rule? And what impact will this rule have on these families?

Mr. Buchanan. Thank you for the question, Chairman Rounds. I would tell you that I categorically would say that, no, they did not take into effect the impact that this would have to those family farmers. Thank you for recognizing that the majority of farmers and ranchers in this great Nation are truly family farmers and have operated on that land for many generations now, and will continue to do that.

The impact that my neighbors are beginning to see is that certainly as this hangs over our head, being able to make business plans and implement potentially new ag business plans are on hold because we don't really know where this is going to go. Additionally, any purchase or sale of land is in question now. What could that land be used for?

So the impact is growing and is beginning to scare rural America, and is really impacting the rights of private property owners; and I would hope that this Committee recognizes that. Thank you, sir.

Senator Rounds. Thank you, sir.

Mr. Sullivan, EPA's Brick MACT Rule is another instance where it seems EPA overlooked the impacts on small businesses. EPA estimated the rule would cost \$25 million. However, a February 2016 U.S. Chamber report, which I would like to insert in the record, reported the cost to be as much as \$100 million per year. Importantly, more than 60 of the 70 U.S. brick plants impacted by the rule are small businesses, often family-owned. In South Dakota, this could cost nearly 300 good paying jobs.

I understand EPA convened a small business review panel and the Office of Advocacy recommended the EPA should grant flexibilities to minimize the impacts on these already struggling small businesses. So can you help me understand what went wrong here?

Mr. Sullivan. Thank you, Senator. The brick industry is a very good case example of how the proverbial straw will break the camel's back. These are family-owned businesses that, unfortunately, due to regulatory pressures over and over and over again, are rapidly just folding shop, and that gets at the challenge of process versus outcome. You can have a process that I think this entire panel would agree on, that if it truly engages the small business community in a constructive discussion, you can come up with better alternatives.

The challenge with the Brick MACT and several other rules that impact the brick industry is that if you have a series of panels and a series of EPA rules, eventually just that overwhelming burden is going to crush an industry, and I am afraid that that is what has gone on here.

So the solution to that challenge I think goes beyond just the Reg Flex Act, into an understanding of how EPA calculates the cumulative impact. It does a very good job of calculating and making public the cumulative benefits of many of the air rules, but I think it does not do as good of a job as measuring and making public the cumulative burden. And I think if the Agency is being public about both the cumulative benefits of many Clean Air Act rules, then I think that you deserve and the public deserves an equal assessment of the cumulative burdens on those same industries.

Senator Rounds. Thank you, Mr. Sullivan.

Senator Markey?

Senator Markey. Thank you, Mr. Chairman, very much.

Dr. Reichert, I was thrilled by your ability to lay out how new companies get created when EPA identifies problems that have to be solved. So can you expand upon that a little bit more? What gets unleashed when there is a clear pollution or environmental issue that is identified from the private sector perspective?

Ms. Reichert. Absolutely. Thank you, Senator. In fact, I think I can best do that by sharing a few additional examples of companies that have responded to environmental regulations, already in effect or about to be in effect. So in addition to the young companies that I had mentioned previously, we have several others who benefit from new markets that are created by Clean Air Act regulations already in effect or about to be in effect.

So one company creates coatings for copper tubing, which increases condensation efficiency in power plants, increasing the plant's overall efficiency and reducing emissions. And this company will benefit from the Clean Air Act's Clean Power Plan.

A second example, one of our companies provides highly sensitive infrared sensing of methane gas leaks. Two more of our companies provide technologies to capture or use natural gas

from wellheads through the multi-phase compression or microturbine technologies that they have developed. And those companies all benefit from several different Clean Air Act regulations; one is about methane emission standards for new and modified sources in the oil and gas industry, a second is the Clean Air Act's oil and gas air pollution standards, and a third, stationary internal combustion engines also under the Clean Air Act.

Senator Markey. Thank you. So that is kind of exciting. You don't end the old industry; you add new technology that just keeps the old industry going, but with higher environmental standards met by innovative new technologies. So I think that is pretty much what we are talking about.

Mr. Knapp, in your testimony you are saying that the Clean Water rule enjoys a lot of bipartisan support and that you are here representing, I think you said, 200,000, 300,000 small businesses?

Mr. Knapp. Yes. The American Sustainable Business Council.

Senator Markey. Yes. Could you talk about why those small businesses support the Clean Water rule?

Mr. Knapp. Small business owners are nothing more than regular folk out there. Who doesn't want clean water? And that is what I have always told everybody. A small business person

really is just like your neighbor; they just happen to own a business. They have the same concerns that everybody else has.

So to the degree that they feel that clean water is important and they support a regulation that would in fact guaranty that their fresh source of water is going to be protected. So it is not unusual for the results that we get from our polling, because those are the same results you get from polling of the general public.

Senator Markey. So can you talk a little bit about this balance between regulation on the one hand and cost to businesses with the clear positive impacts that come about because of the regulations? That creates, sometimes, a little bit of a conundrum in seeing the benefits that come as well as the obvious kind of constraints that a regulation might place upon an existing way of doing business, but yet there are clear positives as well.

Mr. Knapp. Yes. Look, regulations exist and the rules exist because there is some outcome that we are seeking, the Government wants to happen. Congress has passed some type of legislation that is going to require the implementation, which requires rules.

So will there be impacted businesses that will be negatively impacted by a rule? Yes. But, again, it is the overwhelming relationship between the negative response and the

positive impact. And we know that regulations and rules will be responded to by the private sector. That is what the private sector does; they recognize where they can make money and they go there. And if a rule was established that clearly sets a path for businesses to follow, they will follow it.

Does that mean that some businesses are going to be negatively impacted? Yes, it does. But what businesses really want are fair rules; they want those rules to be set and to not be questioned all the time, because that then creates the uncertainty that we heard about here with the Waters of the U.S.

Senator Markey. So once you set the goals for social or economic or health or environment outcomes, then all of a sudden you get this incredible explosion of entrepreneurial activity, which solves the problem.

Mr. Knapp. Which the doctor just talked about.

Senator Markey. Not just here at Greentown, but all across America as well. And that is kind of the balance that we have always struck since the beginning of the clean water and safe foods revolution back in the early part of the 19th century, it has always been a balance. But I think in the end it is pretty clear that the net effects of it are healthier, cleaner society, and many more jobs that were created in solving the problem.

So thank you, Mr. Chairman.

Senator Rounds. Chairman Inhofe?

Senator Inhofe. Thank you, Mr. Chairman.

Let me follow up a little bit from Chairman Rounds' questions to you, Mr. Buchanan. Your testimony mentions how the Small Business Administration Office of Advocacy told the EPA that the WOTUS Rule will have significant economic impacts on small business.

The EPA ignored what I call this expert advice, refused to consult with small businesses, and it said certified that the rule would have no small business impacts. Now, clearly they don't have to do it. They will just ignore the recommendations? The Office of Advocacy is there to advise people of what is going to happen. What is your thought about that?

Mr. Buchanan. I would adamantly say that the EPA should not ignore that recommendation. We have to recognize now that SBA is set there for a purpose, and in this instance their ability to function especially with independence within this process is imperative. Agencies need to recognize that SBA is here to advocate and to communicate to the other agencies about the impact of any proposed rule to small businesses across America, so they have to be listened to and have to be an integral part of this process.

Senator Inhofe. Well, Mr. Sullivan, you just heard Mr. Buchanan say the EPA's failure to consult with small businesses against the Office of Advocacy's recommendation hurt its

members. Now, do you have any recommendations that we can make, make it stronger or how to reconcile agency disputes with the Office of Advocacy? I mean, they are supposed to be consulting back and forth.

Mr. Sullivan. Thank you, Chairman Inhofe. I have included detailed recommendations in my written testimony. I will try to summarize. I think there are a couple of fundamental things that don't work, and one of them is the legal community saying, well, if there is a problem, then after EPA finalizes the rule we can go to court. I think in the world of a small business owner, in the world of a farmer, having EPA certify that it is not going to impact small business, for SBA to throw the penalty flag and then for farmers to have to wait two, three, five, seven years before a case is --

Senator Inhofe. Let me interrupt just a little bit here because you are telling me something I didn't know.

Mr. Sullivan. Sure.

Senator Inhofe. You are saying that they have to certify that it is not going to hurt, and this is in light of the fact even if they were told by the Office of Advocacy that it would?

Mr. Sullivan. Yes. It is just an interagency disagreement. I think what makes this unique is the Office of Advocacy's independent role. This Committee certainly is aware

that agencies should have deliberative discussions that are private and confidential to come up with recommendations.

The Office of Advocacy's role as an independent check on regulatory authority is a significant and unique authority within the Federal Government; however, it is limited. And one of those limits is when the Office of Advocacy says, I am sorry, but you cannot certify that this rule will not significantly economically affect small businesses, then the businesses have to wait until after the rule is finalized before they go to court.

There is an unfairness there. I think in the legal community we are satisfied by saying, well, you know, the law provides a legal backstop. But the reality is that backstop happens two, four, seven years later, and actually what happens in those seven years, as you heard from Mr. Buchanan, is uncertainty and other bad things. I think that Congress can take action and try to come up with ways for quicker and more efficient resolutions of that disagreement.

Senator Inhofe. And that is helpful. That is helpful.

Before I lose my time here, Mr. Canty, a lot of the regulations coming out of the EPA's Office of Air, the Air Office, called the Clean Power Plan, I think we all need to understand what this is. This is what the President came up with and made a commitment in Paris that we in the United States

would reduce emissions by between 26 and 28 percent by 2025. They don't know how they are going to do it.

We even tried to have a hearing and the EPA didn't want to come in and tell us how they are going to do it. So obviously nobody knows how that is going to happen. But it would have devastating effect on the reliability, the reliability, the predictability.

Can you kind of walk through how even a brief disruption in electricity impacts the operation at one of your manufacturing offices?

Mr. Canty. Thank you, Senator Inhofe. You are quite right, it is not only the extra cost to a manufacturing company like mine, but when we have outages, which we have on a regular basis, it is not just the 5 minute or the 30 minute outage that we have; it is the rebooting of equipment, it is the rebooting of personnel and the rebooting of software, it is the stoppage of work and then trying to get a whole team back working. The cost is pretty significant.

And when we look at relocating, taking into power considerations is critical what we do and how we do it, and that is happening in Ohio a great deal because of the Clean Air Act being proposed to, before their time, shut down a great deal of our energy that comes out of coal plants. Everyone wants clean air, but when you are pushing it faster than technology can

garner it and faster than new capacity in other forms can take it over, we end up severely hurting manufacturing companies and other businesses that are desperate for that power.

Senator Inhofe. Thank you.

Senator Rounds. Thank you.

Senator Booker?

Senator Booker. Thank you very much, Mr. Chairman.

Actually, we appreciate the thorough testimony from the witnesses, and any other questions I have I will submit for the record.

Senator Rounds. Very good.

At this time I think we are going to try to do one more round of three minutes each, and we will limit ourselves on it, but this will give us an opportunity to wrap up. Let me begin.

Mr. Sullivan, in your testimony you say that there are times when the EPA approaches the Regulatory Flexibility Act as merely a bureaucratic procedural hurdle. The RFA was defined to be a safeguard for small businesses when agencies seek to implement regulations that will impact them.

When it is viewed as simply a procedural hurdle, how does this affect the quality of the regulation and the thoroughness of the review of how the regulations will impact small businesses?

Mr. Sullivan. Thank you, Chairman Rounds. I think when agencies, including EPA, look at the Reg Flex Act as a hurdle it doesn't work. When they look at it from a constructive exercise it does. That means committing to having a SBREFA panel early in the process, it means listening to the small business owners before the ink is dry on the proposed regulation, and it means working with the small businesses all the way through the rulemaking process, and it doesn't stop there, the actual compliance and implementation process. And if that is the case, it is a constructive dialogue, it is not an adversarial dialogue, and it can work.

Senator Rounds. Mr. Canty, you will soon be traveling to Poland, Germany, and China in order to begin the process of importing products for your company that you used to make in-house. Can you explain what about the regulatory environment has made it impossible for you to continue to produce these products in the United States? And, when this happens, what is the overall impact on your business, including jobs in your company?

Mr. Canty. Thank you, Mr. Chairman. We have grown in the past 10 years our employment by over 400 percent. Our company has grown in revenues by over 500 percent. Our goal has always been to in-source everything. But the magnitude, the cumulative magnitude of regulations from the EPA, from OSHA, from the

Department of Labor, from the NLRB that have been passed and are currently in the process of being passed are just becoming so costly and so cumbersome that it drives manufacturers like us to go overseas, where they don't have to comply with some of those costs and certainly not to the level that they have to do here.

They also end up having an unknown. We don't know what is going to come this year or next year or the year after. What additional escalating costs are going to be coming? How are we going to have to comply? And to what level are we going to have inspectors, surprise inspectors, whether it is the EPA, in a very clean company that we have, or OSHA or someone else come in and say you are doing it wrong, so you are going to get tens of thousands of dollars of fines because you didn't know about the rules, you didn't understand the rules? That is a huge issue. That is as important to us as the costs are.

And the impact on our company? We have invested millions the past 10 years, we are a small company, in new technologies and new equipment, processes and people. We have technology and equipment no one in the world has at this point. That won't happen with some of these product lines; it is going to go overseas. And the technology and the jobs and the processes and our manufacturing prowess both with our company and this Country is going to continue to be shifted overseas instead of right here, made in America, where I would just as soon have it be.

Senator Rounds. Thank you, Mr. Canty.

Senator Markey?

Senator Markey. Thank you very much.

We only have three minutes. I want to give you, Mr. Knapp, and Dr. Reichert a chance to deal with this question of whether or not these environmental regulations, in their own way, create a bubbling, boiling caldron of competitiveness trying to create the new ideas to make our Country cleaner and safer on the one hand, but also more prosperous with homegrown jobs.

So maybe you, Mr. Knapp, you can talk about the 200,000 companies that you are representing in this sector; and you, Dr. Reichert, maybe you can talk about the Massachusetts challenge, this accelerator going from concept to execution and starting up new companies to solve these problems.

Mr. Knapp. I am going to let the doctor talk about the specific acceleration of companies. I want to address some things, if you don't mind, Senator, some things that were said. The Clean Power Plan is going to be implemented by the States. It is a goal set by the Federal Government, by the Administration, EPA, but it will be up to each State to decide how they are going to achieve that goal.

I don't think that any State is going to then say we are going to shut down electricity to do that. I know in South Carolina we are very fortunate, we have two nuclear plants being

built that will take care of 80 percent of our goal. Coincidence or not, we are going to be sitting pretty good.

But, nevertheless, the proof is in the economic data that clearly shows that when you invest in new technology, you grow more jobs. I will note that you probably said that you have over 100,000 clean energy jobs in Massachusetts, and congratulations on that. I will tell you that that is actually more jobs than the coal mining industry right now. So you are going that way and they are going the other way. But on balance we are producing a healthier and stronger economy with new technology.

Senator Markey. Dr. Reichert?

Ms. Reichert. Thank you, Senator. So, in my experience as CEO of Greentown Labs since 2013, we have seen just incredible growth in the innovation in clean technology sectors here in Massachusetts. I can speak especially about all of the different support systems that have sprung up, whether they be accelerators, incubators, and other means of support to help these early stage companies get off the ground.

It is a tough thing to do, right, you are going from an idea to something that you make in the lab to something that you hope can be 5 that work in the lab to 50 that work in the field to 1,000 that hopefully work in your first customer's shop. So it is a real challenge that these startups face. They struggle

with it, but it is also an incredible opportunity, and so many of them are doing so well, and we just see that really all over Massachusetts.

But we also are in touch with incubators from around the Country, whether they be in Texas or Michigan or Illinois, California, New York, Hawaii. All of these other incubators we work with who are also helping early stage companies to develop their technologies, they are seeing the same thing, too.

Senator Markey. When I look at MIT, I know there are 2,000 kids at MIT who have self-selected themselves into the energy club. So that is 2,000 kids with 800s on their boards saying, I want to work on energy issues, and they want to do well and do good. In other words, they would like to solve the problems and get rich at the same time.

And that is not just at MIT, it is at every college all across America, regardless of the State. These kids are there, readying to go to solve the problem. And like you are saying on methane, there is a new technology there that could be used and applied to solve the problem of whether or not these other plants ever have to shut down. They just found a way of reducing by 95 percent the methane by unleashing this new technology.

So I just think it is very exciting to our Country, and the potential is really unlimited in this sector, and I think that

all energy technologies, as a result, can flourish simultaneously.

Thank you, Mr. Chairman.

Senator Rounds. Senator Boozman?

Senator Boozman. Thank you, Mr. Chairman.

First of all, being from Arkansas, I want to welcome our Oklahoma neighbors that are in the audience from Oklahoma Farm Bureau, and then also USRA.

Mr. Buchanan, tell me what we can do to better encourage rule writing that takes into account impacts to small business.

Mr. Buchanan. Thank you for the opportunity, sir, and good to see you again.

I want you to know that what I have heard on this panel, and hopefully this answers your question, is that some people believe that Government regulation drives ingenuity and innovation and meets new needs. I will tell you that 6 million members of American Farm Bureau who are family farmers and ranchers are meeting needs today by using technologies that the market drives.

There is not a one of us that produces product that somebody doesn't want to buy. We have the ultimate regulator, and that is the American consumer. And if we are producing a safe and a quality and an affordable product, the American consumer will continue to do business with us. Regulations will

do nothing but handcuff us and handicap us. I'm getting all soap box a little bit, sir.

Senator Boozman. No, we want you to get on your soapbox. That is good.

Mr. Buchanan. I would hope that we would recognize that regulations placed on American farmers and ranchers becomes, in my view, somewhat of a food snobbery. There are many amongst us in this Nation that are having difficulties feeding their families today. In fact, in my home State of Oklahoma, one in four children go to bed hungry at night. Food insecurity is a big issue across this Nation, across the world. I would ask you folks who can write regulations or not write regulations to not handcuff, not handicap American agriculture.

Think that when you go to the grocery store, regardless of where you shop, Senator Booker, if that is at a discount grocery store or the boutiques, or a farmer's market on a Saturday morning, the American public today, as I alluded to, enjoys the most abundant, the highest quality and the most affordable food sources they have ever had, and that is a result of American agriculture meeting the need of the market. I am a market-driven guy. Call me naive. I believe if the market requests something, wants something, that American farmers will meet that demand.

So to answer your question, Senator Boozman, what we can do to encourage rural America and American agriculture is, being a smart aleck here, get out of our way, give us the opportunity to continue to feed and clothe and start doing fueling for this Nation. We are ready to do that job, we want to do that job, and will do it if you give us the chance. Thank you, sir.

Senator Boozman. Thank you.

Mr. Sullivan, as you know, the EPA often creates new mandates under the sue-and-settle process. Here is how it works: the EPA will be sued by a left-wing law firm or lobbyist group; then the agency will settle the lawsuit with the group, agreeing to pass new mandates by negotiated deadline; the courts rubber stamp the agreement. In the end, the agency gets more power and the law firms and lobbyists get what they want, too.

Do you think these negotiated deadlines from sue-and-settle agreements can rush critical interagency reviews such as those required under the Regulatory Flexibility Act?

Mr. Sullivan. Yes, I do.

Senator Boozman. Very good. What kind of harm and consequences are caused by the rushed interagency reviews under the Regulatory Flexibility Act

Mr. Sullivan. Thank you, Senator. The harm that is caused by deadlines, whether real or false, are that agencies don't listen to small business. I am a dad, I have two little boys,

and I learn every day that what helps our family is when I listen to them. Thank goodness they are not always right, but listening makes a big difference. And I think that when folks have deadlines and the incentive, every incentive is to pass a rule, then an agency is disinclined to listen, and based on that input from small business make changes that both meet the underlying statutory goal and minimize the burden on business.

Senator Boozman. Very good.

Thank you, Mr. Chairman.

Senator Rounds. Senator Booker, would you care to?

Senator Booker. No.

[Laughter.]

Senator Rounds. Okay. Very good.

Senator Inhofe. I haven't had my three minutes.

Senator Rounds. Oh, I am sorry. Mr. Chairman, would you care to take three minutes?

Senator Inhofe. Yes.

[Laughter.]

Senator Inhofe. Let me just share something that everybody in this room knows, and that is I am very thankful that the courts have gotten involved in some of these. What we consider, Mr. Knapp, the ones out in my State to be the most significant over-regulations, if you might, would be the WOTUS. In fact, I think I mentioned earlier that when I talked to Mr. Buchanan in

his capacity as the President of the Oklahoma Farm Bureau, he identified the WOTUS bill. And then the other is the Clean Power Plan.

But the courts have come along, the Sixth Circuit put a stay on the WOTUS bill, so you have breathing room now. We don't know what the outcome is going to be. Then the United States Supreme Court put a stay, issued a stay on the Clean Power Plan. And, of course, that is the one where we had some 27 States, more than half the States had lawsuits against the EPA on that particular regulation, the Clean Power Plan.

Now, that is all good, but it tells me that if we had done a better job of passing the regulations to begin with it wouldn't be necessary for the courts to come in and intervene. I was just on the Senate Floor today with a giant chart just like this on the Clean Power Plan. If you look at what is going to happen, on February 9th the stay took place; June 2nd the case is before a three judge panel. It goes on all the way back. It is going to be 2018 before there is going to be any final decision on this thing.

Now, I see that as good news, but it is a problem because, obviously, if they had done the job right in the first place, we wouldn't have had to have all this unpredictability.

Do you agree with that, Mr. Buchanan?

Mr. Buchanan. Absolutely. I would assume, sir, sitting in your chair, strategically, you would be able to slow-play that. That might be a good thing, but I would tell you that when I am getting ready to plant a cotton crop and my fellow farmer neighbors and ranchers in Oklahoma are trying to get the inputs that they need to produce whatever crop they are going to produce for the coming year, the inability to know what is coming down, the inability to know what EPA or anybody else might place a new regulation upon us really makes it very tough to do business.

And if I may, sir, one thing that while agriculture has the mic, we would like to take advantage of that, and I want you to know that it appears that many times we are overlooked, being landowners, about how we treat the land, and I hope it doesn't fall on deaf ears, but the majority of farmers don't have big 401(k) accounts, they don't have great big stock holdings; they have investment in land, and that is their retirement plan. And that retirement plan will be passed on to their sons and daughters and family members. And why in the world would anyone in good conscience pass on something to their family members that was polluted or ruined or somehow infringed upon the ability to produce?

Senator Inhofe. There is a mentality that somehow Government has to intervene to make sure you are taking care of

your property and all this. I had a meeting in my office; there are four people here that were in my office a couple hours ago, and this idea, they are more concerned than anybody else. That is why the partnership program has been one of the most successful programs that we have had. It has been very successful in Oklahoma.

Thank you, Mr. Chairman.

Senator Rounds. First of all, let me just say thank you to all of our panel members, and Ranking Member Markey and Chairman Inhofe. The idea behind this is to get good information, to learn, to see what we can do to do better; and it requires input from all sides, and that is what we are receiving here today.

I would like to thank you for taking the time to be with us today and I would also like to thank my colleagues as well for attending this hearing and their thoughts.

The record for this meeting will be open for two weeks, which would bring us to Tuesday, April 26th.

With that, this hearing is adjourned. Thank you.

[Whereupon, at 3:53 p.m. the committee was adjourned.]