

**Subcommittee on Superfund, Waste Management, and Regulatory
Oversight Hearing:**

**“American Small Businesses’ Perspectives on Environmental
Protection Agency Regulatory Actions”**

Tuesday, April 12, 2016 at 2:30 p.m.

Thank you Subcommittee Chairman Rounds for convening today’s hearing, and thank you to our witnesses for being here to testify. I am especially pleased we will hear testimony today directly from small business owners with operations across the country from Oklahoma, to Ohio, to Massachusetts.

Our nation’s best ideas and economic success stories stem from small businesses. Yet, it is small businesses that are most vulnerable to federal regulatory overreach, where even a minor change in the eyes of a regulator can equate to a death sentence for a small operation. I know first-hand, from my days as a former developer, how red tape can bury a small operator from doing good work, as I once had to go to twenty-six different government bureaucracies to get a single project permit approved.

For these reasons, it is critical small businesses have a voice in Washington, both in Congress and in the overwhelming federal bureaucracy. Today, the subcommittee will take a closer look at how

well those voices have been heard at the U.S. Environmental Protection Agency (EPA).

Mindful of the sensitivity small businesses have to federal regulation, Congress has enacted several laws and Presidents have signed executive orders that require federal agencies to carefully consider the impacts of a potential regulation on small businesses. Most notably, the Regulatory Flexibility Act of 1980 (RFA), and its amendments from the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996, designed a process to make federal regulators think about how small businesses would actually comply with a regulation – on the front end. This statutorily mandated process was so important, Congress created the Office of Advocacy within the U.S. Small Business Administration to monitor agency implementation of the RFA.

Decades later, we are amidst a regulatory regime under the Obama Administration that has grown too big and short-changed this process. EPA has exploited ambiguities in these laws to issue its agenda-driven policies, even at the expense of small businesses. Instead of robust review and meaningful input from small businesses prior to issuing a regulation, the Obama-EPA has treated the RFA as a mere “check-the-box” exercise.

This is precisely what happened before EPA proposed its waters of the U.S. (WOTUS) rule to drastically expand waters regulated by EPA, which will make it extremely difficult for farmers to make routine changes to their own property and decrease farmer's property values. In this case, EPA and the Army Corps of Engineers certified the proposed rule would not have significant small business impacts—contrary to the advice of the Office of Advocacy. EPA's decision to simply ignore the Office of Advocacy's advice allowed the agency to circumvent RFA requirements despite ample evidence that the rule would lead to much higher costs for many small businesses.

There are plenty of other examples where the Obama-EPA and the Office of Advocacy have disagreed on the impacts a potential regulation could have on a small business. Ultimately, this regulatory approach is inefficient. Disregarding small businesses leads to poorly written rules and years of litigation, which only delays action that could produce meaningful public health and environmental benefits.

Accordingly, Congress must continue to conduct oversight over EPA's implementation of the RFA to ensure robust analysis and input from small businesses is used to issue leaner, smarter regulations that benefit all stakeholders, and avoid costly rules with little to no benefit. American ingenuity and well-being depend on it.

I ask that my full statement be entered into the record. Thank you.