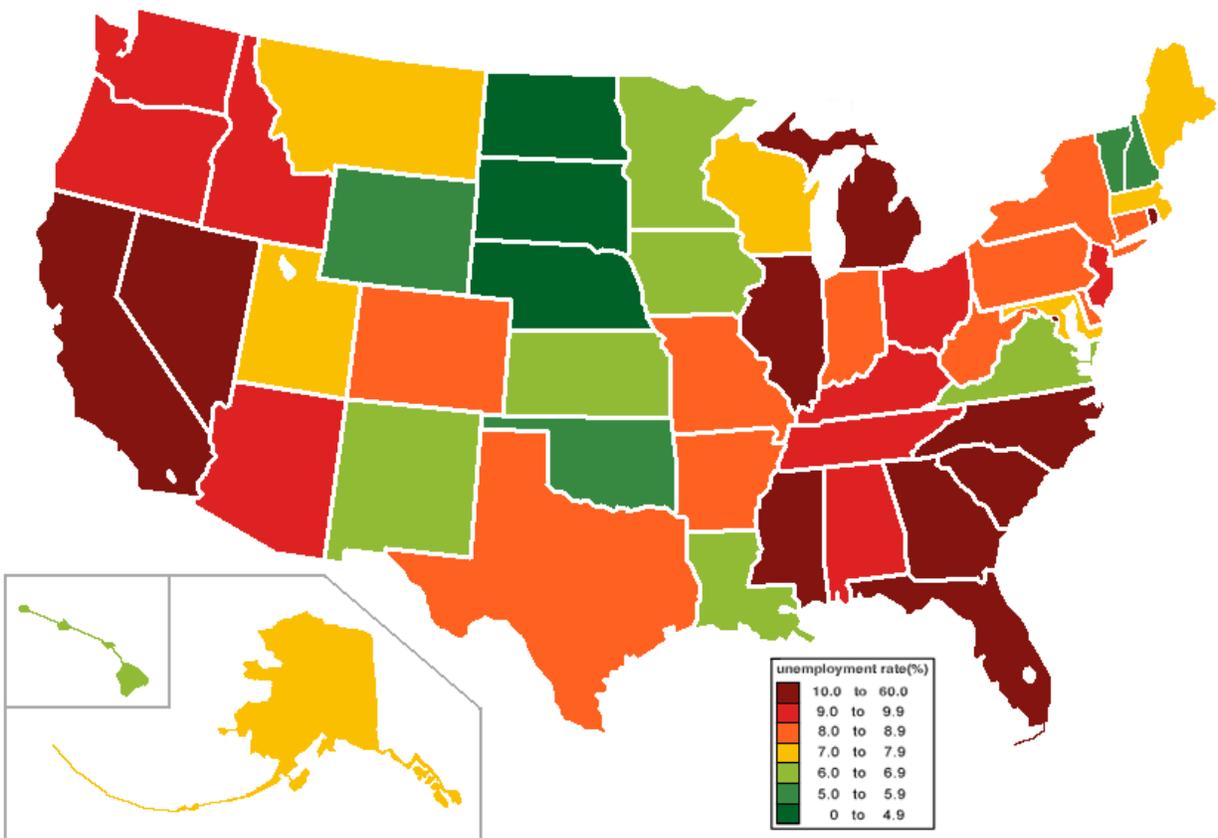




*SENATOR JOHN BARRASSO, M.D.
VICE CHAIRMAN*

December 2011

The United States of Regulation



The United States of Regulation

Small businesses are being hurt in each of America's 50 states by Washington's red tape. Washington regulations are often burdensome, expensive and time consuming.

In 2011 alone, the Obama Administration's proposed and final rules have a cost of over \$230 billion and will impose 120 million hours of paper pushing. Every hour of paperwork for Washington bureaucrats is one less hour of innovation for America. A recent Gallup poll showed small business owners say "complying with government regulations" is the most important problem facing them today.

The "United States of Regulation" highlights media reports, and testimony to Congress (credit: House Committee on Oversight and Government Reform, Chairman Issa) throughout the year by small business leaders who are speaking out against specific federal regulations. Examples include:

- **Tempe Farming Company (Tempe, Arizona)** could see their water rates rise by over \$100,000 every year because of an EPA mandate on energy generation.
- **Pro-Troll Products (Concord, California)** lost 40% of its business because of a federally mandated salmon closure.
- **Find Great People (Greenville, South Carolina)** estimates their healthcare costs will increase by \$62,000 to \$76,000 per month because of Obamacare.
- **Hourigan's Dairy Farm (Elbridge, New York)** faced an EPA water regulation that would have sacrificed 900 family farms.
- **Buschur Electric (Minster, Ohio)** paid \$10,000 for an EPA certification they eventually did not need.

Republicans are working to cut red tape and make Washington more responsive, effective, and efficient. Senators from states across the country have introduced legislation that will make it cheaper and easier for small businesses to create jobs:

- **Alabama:**
 - [Shelby Introduces "Financial Regulatory Responsibility Act" \(S. 1615\)](#)
- **Arizona:**
 - [McCain, Paul, Portman Introduces "Jobs Through Growth Act" \(S. 1720\)](#)
- **Florida:**
 - [Rubio, Cornyn, Hutchison Look to Shut Down Proposed IRS Reporting Rule \(S. 1506\)](#)
 - [Rubio Calls on Senate to Act on Defunding Job-Destroying EPA Mandate \(S. Amdt. 435\)](#)
- **Georgia:**
 - [Isakson Introduces Legislation to Reverse Decision to Allow "Mini Unions" \(S. 1843\)](#)
- **Idaho:**
 - [Crapo Introduces "Silviculture Regulatory Consistency Act" \(S. 1369\)](#)

- **Kansas:**
 - [Moran Introduces Bill to Reform Consumer Financial Protection Bureau \(S. 737\)](#)
 - [Roberts Introduces “Regulatory Responsibility for our Economy Act” \(S. 358\)](#)
- **Kentucky:**
 - [Paul Introduces Resolution to Repeal EPA’s Cross-State Air Pollution Rule \(S.J. Res. 27\)](#)
 - [Paul Introduces “REINS Act” \(S. 299\)](#)
- **Louisiana:**
 - [Vitter Introduces Bill to Put “Moratorium” on Agencies Over-Regulating \(S. 927\)](#)
- **Maine:**
 - [Snowe Introduces “Regulatory Flexibility Improvements Act” \(S. 1938\)](#)
 - [Collins Calls for “Time Out” from Burdensome Federal Regulations \(S. 1538\)](#)
 - [Collins Introduces Bill to Give EPA Time to Implement Boiler MACT Rule \(S. 1392\)](#)
 - [Collins Introduces “Keeping Politics Out of Federal Contracting Act” \(S. 1100\)](#)
 - [Collins Introduces “Clearing Unnecessary Regulatory Burdens \(CURB\) Act” \(S. 602\)](#)
 - [Snowe, Coburn Introduce the “Small Business Regulatory Freedom Act” \(S. 474\)](#)
- **Massachusetts:**
 - [Brown Introduces “Novel Device Regulatory Relief Act” \(S. 1943\)](#)
- **Nebraska:**
 - [Johanns Legislation Would Curb Federal Regulations on Job Creators \(S. 1531, S. 1530, S. 1528\)](#)
- **Nevada:**
 - [Heller Bill Streamlines Permit Process for Job Creators \(S. 1844\)](#)
 - [Heller Advocates for FCC Reform \(S. 1780, S. 1784\)](#)
- **Ohio:**
 - [Portman Introduces Bill to Reduce Onerous Red Tape on Job Creators \(S. 1606\)](#)
 - [Portman Introduces Measure to Reduce Red Tape on Job Creators \(S. 1189\)](#)
 - [Portman Unveils Senate Republican Jobs Plan: An Outline for Creating American Jobs and Prosperity](#)
- **Oklahoma:**
 - [Inhofe Releases Senate Report Exposing the High Cost of EPA’s Water Regulations](#)
 - [Inhofe, Johanns Introduce “Comprehensive Assessment of Regulations on the Economy \(CARE\) Act” \(S. 609\)](#)
 - [Inhofe, Johanns Introduce Bill to Assess the Effects of Federal Regulatory Mandates \(S. 1971\)](#)
- **Pennsylvania:**
 - [Toomey Introduces “Employment Protection Act” \(S. 1292\)](#)
 - [Toomey Introduces “Private Company Flexibility and Growth Act \(S. 1824\)](#)

- **South Carolina:**
 - [DeMint Pushes to Repeal Dodd-Frank Financial Takeover \(S. 712\)](#)
 - [DeMint, Barrasso Offer Bill to Relieve Regulatory Burdens, Spur Investment & Job Growth \(S. 1962\)](#)
- **South Dakota:**
 - [Thune Introduces Bipartisan Bill to Increase Access to Capital for Job Creators \(S. 1831\)](#)
- **Tennessee:**
 - [Alexander, Graham, DeMint Introduce "Job Protection Act" \(S. 964\)](#)
- **Texas:**
 - [Hutchison Introduces Resolution to Repeal Net Neutrality Rule \(S.J. Res. 6\)](#)
- **Wisconsin:**
 - [Johnson Introduces "Regulation Moratorium and Job Preservation Act" \(S. 1438\)](#)
- **Wyoming:**
 - [Enzi Backs Constitutional Amendment to Give Power Back to the States \(S.J. Res. 12\)](#)
 - [Barrasso Introduces "Employment Impact Act" \(S. 1219\)](#)

Alabama

Dodd-Frank Volcker Rule & Obamacare

Hoffman Media

Birmingham, Alabama

“The Volcker Rule’s hedge fund and private equity fund investment restrictions generally prohibit a banking entity from acquiring or retaining any equity, partnership, or other ownership interest in, or sponsoring a private equity fund (other than perhaps 3% or less of Tier 1 capital). I fear this could lead to a substantial decrease in the funding support of private equity firms, especially those firms covering the lower middle market (companies similar to Hoffman Media in 2004).

“It is with great concern I also address the healthcare reform and the risk of higher taxes. Hoffman Media currently has 135 employees, of which, a large majority are using benefits provided through the company. **Just in the past 12 months our health insurance costs have risen 8% (far lower than the rate of other small businesses in our area) and are expected to increase again soon. In an environment where unemployment is over 9%, housing foreclosures are higher than ever, it is already incredibly hard to run a successful business, but with extremely large increases in employee benefit expenses, it makes it even harder.**

“Companies like Hoffman Media who are faced with the need to pay down loans are further impacted by tax rate increases since principal payments on debt are not tax deductible, only the interest expense. Hoffman Media has cut its debt level in half over the past 24 months, and had our tax rate been higher we would not have been able to do so as it would have effectively cost us more to pay down the same level of principle. Going forward we will be faced with tougher challenges as business operators and employers, where the costs of being successful and generating profits are higher.”

(Source: Eric Hoffman, Hoffman Media, House Committee on Financial Services, “[Promoting Economic Recovery and Job Creation: The Road Forward](#),” 1/26/11)

Alaska

EPA Best Available Control Technology (BACT) and other Air Quality Permits

Shell Oil

Anchorage, Alaska

“Shell Oil said Thursday it will not conduct exploratory drilling in the Alaskan Arctic this year after a ruling last month revoked the company's federal clean-air permits that would have allowed drilling ships and support vessels to operate in the environmentally sensitive region.

“Attorneys representing Alaska Natives and conservation groups succeeded in challenging Shell's clean-air permits granted by the Environmental Protection Agency (EPA) for exploratory drilling in the Beaufort and Chukchi seas. The federal Environmental Appeals Board ruled last month that the EPA's analysis of nitrogen-dioxide emissions from the drilling ships was too limited. The board ordered the agency to redo the work.

“Shell Alaska Vice President Peter Slaiby on Thursday blamed the decision to halt the Beaufort exploratory drilling for one year on ‘continuous regulatory delays.’ He said the company has spent more than \$50 million to secure the EPA permits.”

(Source: Jule Cart, “Shell says it will delay drilling in Arctic this year,” [Los Angeles Times](#), 2/3/11)

Arizona

EPA Best Available Retrofit Technology (BART) Determination

Tempe Farming Company Maricopa, Arizona

“Salt River Project, part owner and operator of Navajo Generating Station, has already completed installation of low NOx burners at a cost of about \$46,000,000. This, in turn, will be passed along to the power customers and will raise the cost of Central Arizona Project water in the range of \$.50 per acre foot. On my farm, we use about 6700 acre feet of CAP water per year which will equate to an annual cost of about \$3300.

“Power companies will have the luxury of passing along the increase in costs to their hundreds of thousands of customers. Can Tempe Farming Co. pass along a \$107,000 cost increase to our customers? The answer is NO. Our cotton and wheat is sold on a world market, and there is no way that I can just raise my prices just because my costs go up. Local dairies that buy our alfalfa won’t be able to raise their milk prices to pay for a huge increase in feed costs.”

(Source: Dan Thelander, Partner, Tempe Farming Co. House Natural Resources Subcommittees on Water and Power and Indian and Alaska Native Affairs, [“Protecting Long-Term Tribal Energy Jobs and Keeping Arizona Water and Power Costs Affordable: The Current and Future Role of the Navajo Generation Station,”](#) 5/24/11)

Arkansas

EPA National Pollutant Discharge Elimination System (NPDES) Permit

Ray Vester, Rice Farmer
Stuttgart, Arkansas

“We’ve never had one (water permits) — never had to have one,” Vester said. “But the EPA is coming out with a rule they say in February — I don’t know if it’s quite ready or not. Each state has to be working on it so that when the federal government comes out with the regulations the states will have theirs ready. That is where the enforcement will come from.”

The Arkansas State Plant Board is currently working on the measure.

The courts decreed not long ago that pesticide residue in surface water is a pollutant, according to Vester.

“If you put pesticides over water then you must have a permit to do that. We are not sure if rice fields will fall under that regulation. The Clean Water Act says they won’t. **But it always depends on how EPA interprets those things. If they decide rice fields are included then any time you spray pesticide, herbicide or fungicide on your field, you will have to have a permit. So keep that in mind.**”

This issue is proposed to be in place by April. Vester did not seem satisfied it could be accomplished within two months.

“If they leave rice fields out of that regulation, any drainage ditch on your farming operation will remain. Any ditch that drains into any drainage system called the Water of the U.S., which is pretty well any natural drainage creek, and you keep the aquatics out of it with herbicides, you will need a permit to do that,” he said. “There is not a lot of information out on it yet, but as that comes about we will keep people notified.”

(Source: Leigh Kreimeier, “Effects of EPA coming to Grand Prairie farmers in the near future,” [Stuttgart Daily Leader](#), 2/1/11)

California

EPA Biological Opinion under the Endangered Species Act

Pro-Troll Products

Concord, California

“It seems rather clear that the target of those who represent the junior water rights holders of the West Side of the San Joaquin valley is to undo the biological opinion of the National Marine Fisheries Service that was put into place to keep salmon and steelhead from going extinct. To accomplish this they appear willing to destroy the billion dollar salmon industry and the economic engine for hundreds of coastal communities.

“We lost 40% of our business with the 2008 salmon closure. In spite of our best efforts at selling in other regions, we have not been able to replace that loss. We have not made money in three years, our credit line has been cut off and we have cut expenses to the bone to survive. We have laid off employees, cut nearly all advertising and stopped most new product development.”

“I am attaching a chart which shows the decline of the most important salmon run in the state. It is the fall run salmon of the Central Valley. The chart shows that between 2002 and 2009 the run declined 97%. This is the largest salmon decline in U.S. history since the era of dam construction. The fall run is the mainstay of the salmon industry. Because of this crash, the entire salmon industry was shut down in 2008 and 2009 with only a token season in 2010. The economic impact of the shutdown was staggering. Tens of thousands of jobs were lost and coastal communities from Morro Bay to Crescent City lost their primary economic engine.”

(Source: Richard Pool, President, Pro-Troll Fishing Products, House Natural Resources Subcommittee on Water and Power Oversight Hearing on "[Creating Abundant Water and Power Supplies and Job Growth by Restoring Common Sense to Federal Regulations](#)," 4/5/11)

Colorado

EPA Utility Maximum Achievable Control Technology (MACT) Rule

White River Electric Meeker, Colorado

“Electric cooperatives around the country are wrestling with how to address the increasing costs associated with mounting and often unnecessary regulation. **One general manager reports that as much as 20% of their retail rate is allocated to regulatory compliance. At White River Electric it is estimated that as much as 15% of its retail residential rate is allocated to the cost of regulatory compliance.**”

“Regulatory attacks on these large industrial customers could result in the loss of large industrial loads that historically have provided White River Electric with financial and internal rate stability.

“If regulation proposed by the Environmental Protection Agency is approved, it is estimated that it will result in the closure of coal---fired power plants across the country with an estimated capacity of 30 to 70 gigawatts. That is 10 to 22 percent of the total capacity now available. The closure of coal mines and coal plants within the White River Electric service territory alone would result in near economic devastation.”

(Source: Dick Welle, Manager, White River Electric, House Small Business Subcommittee on Agriculture, Energy and Trade, [“Are Excessive Energy Regulations and Policies Limiting Energy Independence, Killing Jobs and Increasing Prices for Consumers?”](#) 9/19/11)

Connecticut

Dodd-Frank Act Derivatives and Swaps Rules

Webster Bank

Waterbury, Connecticut

“Webster Bank shares concerns expressed by a wide range of community and regional banks that the swap dealer definition in the CFTC’s proposed rule could inadvertently encompass hundreds of community and regional banks that offer risk management products to commercial customers. Such a broad swap dealer definition would result in many small banks ceasing to offer derivatives products to customers.

“Regulation intended to protect against systemic failures should not burden those who are incapable of causing such failures in the future. **Broad-stroke regulatory approaches that fail to properly distinguish banks like Webster from major derivatives players like AIG could jeopardize the ability of small banks to efficiently mitigate risk, to compete for lending business against large-bank competitors, and to provide customers with competitively priced alternatives.**”

(Source: Denise Hall, Senior Vice President, Webster Bank, House Committee on Agriculture, “[Derivatives Reform: The View from Main Street](#),” 7/21/11)

Delaware

DOT Hazardous Transportation Materials Act 'Special Permit' Interpretation

DuPont

Wilmington, Delaware

“ACC (American Chemistry Council) is, however, concerned about one aspect of Department of Transportation’s current administration of the regulatory program established under Hazardous Materials Transportation Act. ‘Special permits,’ which are issued under 49 U.S. Code Section 5117, allow safety based variations from DOT’s hazardous materials rules. Applicants for special permits come forward with proposals which can only be granted if DOT finds there to be at least an equivalent level of safety to what a rule provides.

“Unfortunately, DOT has recently imposed unnecessary paperwork barriers that have slowed the approval of special permits and increased costs to shippers, carriers, and the providers of hazardous materials packages.”

(Source: Mary Pileggi, North American Logistics Manager, DuPont, House Transportation and Infrastructure Subcommittee on Railroads, Pipelines and Hazardous Materials, “[Railroad and Hazardous Materials Transportation Programs: Reforms and Improvements to Reduce Regulatory Burdens](#),” 4/7/11)

Florida

EPA Spill Prevention, Control, and Countermeasure (SPCC) Rule

Ice Cream Club

Boynton Beach, Florida

“As the dairy industry is already subjected to significant regulation, we are worried about duplicative regulatory efforts by various levels of government. For example, we are inspected regularly by the US Department of Agriculture (USDA), working with the Florida Department of Agriculture, and also the US Food and Drug Administration (FDA). We have four major inspections by the Florida Department of Agriculture each year as well as numerous other visits to collect samples and calibrate equipment. The new bill calls for even more inspections for food manufacturers, so it will be particularly important that the FDA utilize existing inspections in the dairy industry as much as possible.

“We are also concerned that instead of targeting increased inspection to high risk areas as is required by the bill, there is a perception by the government that food companies are cutting corners and they will take a “once size fits all” approach over the entire food sector. We hope that there is not an adversarial “gotcha” stance coming down the pike.

“Another example is the Environmental Protection Agency’s (EPA) oil spill prevention rule. As you may know, the EPA has recognized that including milk under its oil spill prevention rule is unsound and is working to prevent the oil spill rule from applying to milk and dairy product containers. **As a manufacturer of ice cream mixes, we receive cream in 300 gallon containers, well above the 55 gallon minimum to be covered under the oil spill rule. As such, those containers of cream would be subject to the oil spill rule unless they are also included in the exemption for dairy products.** Although we believe that the EPA is working to define the milk and dairy product exemption in a way that those containers are treated equitably, we are unsure if these containers will ultimately be in or out of the rule.”

(Source: Richard D. Draper, CEO & Co-Founder, The Ice Cream Club, Inc., House Committee on Small Business, [“Reducing Federal Agency Overreach: Modernizing the Regulatory Flexibility Act,”](#) 3/30/11)

Georgia

Obamacare

Braden Benefit Strategies

Johns Creek, Georgia

“The additional education required by me and my staff just to keep up with PPACA’s provisions is an immense undertaking. The different interpretations provided by the health insurance companies require a great deal of time to sort through. I have had to absorb added legal fees to help our firm interpret the law’s complexities beyond available industry information.

“Our internal costs have also increased as we work to provide the proper notices PPACA now requires of small businesses.

“PPACA has also taken a financial toll on the value of my business - in fact my company was valued at \$1.2 million in 2007 (2 x annual revenue). Today my business, the business I have worked hard to grow, have invested my savings in and was counting on to provide my retirement, is not a business anyone would consider investing in or buying - it has absolutely no value.”

(Source: Victoria J. Braden, President and CEO, Braden Benefits Strategies, Inc., House Oversight and Government Reform Subcommittee on Health Care, District of Columbia, Census and the National Archives, [“Impact of the Patient Protection and Affordable Care Act on Job Creators,”](#) 7/28/11)

Hawaii

NOAA Western Pacific Longline Fishing Restrictions

Lady Christine

Honolulu, Hawaii

"The Lady Christine and 25 other swordfish crews troll an area known as the Shallow Set fishery, where swordfish thrive. It's also where NOAA fisheries monitors encounters fishermen have with endangered loggerhead and leatherback turtles.

"We've set a limit on the number of sea turtles that the fishery can interact with. When that is met we have to close the fishery," NOAA regional administrator Mike Tosatto said. The limit was reached on November 18. The fishery will remain closed through the end of the year.

"The fishery closed just as the Lady Christine got there. That cost the owners \$8,000 in wasted fuel.

"We understand that anytime we close a fishery it has a significant economic cost, particularly on the small operators," Tosatto said.

"Tran and his wife, Christine, own two swordfish boats. One left Monday to fish for tuna. The Lady Christine leaves Saturday.

"I hope I can make money, a little bit, to pay for the crew or something. So I can wait for next season, for swordfish only," he said.

(Source: Jim Mendoza, "Federal regulations suspend fishing for swordfish," [Hawaii News Now](#), 11/29/11)

Idaho

DOT Hazardous Materials Transportation Act 'Safety Permit' Program

J.R. Simplot Company

Boise, Idaho

“In Simplot’s case, the only violations that the company had were in the OOS (out of service) category, causing the company to be ineligible for HMSP (Hazardous Materials Safety Permit) renewal. Furthermore, the system is biased against carriers like agricultural retailers that operate in rural areas. Carriers in rural areas receive far fewer inspections than carriers operating on federal highways in busy areas. **In each two-year permitting cycle, DOT does not count the first year of data toward calculating the company’s eligibility, so in our case, it was statistically impossible to overcome even one violation.**”

“In the previous example, Simplot was cited by a state enforcement official on a state regulation that had federal regulatory consequences ... Although a number of the inspections were eventually overturned and removed from the record, it took a great deal of time and uncertainty regarding the company’s federal eligibility. Even though the Federal Motor Carrier Safety Administration (FMCSA) agreed that the violations were not properly issued, the state seemed to have the final say. For business to move forward, it is very important to have consistency in the rules.”

(Source: Paul Derig, Environment, Health & Safety Manager, J.R. Simplot Company, House Transportation & Infrastructure Subcommittee on Railroads, Pipelines & Hazardous Materials, [“Reducing Regulatory Burdens & Ensuring Safe Transportation of Hazardous Materials,”](#) 4/12/11)

Illinois

Positive Train Control Mandate

Anacostia & Pacific Railroad Company

Chicago, Illinois

“Short line railroads are not exempt from the PTC (positive train control) mandate. While the statute specifies that it applies to Class I railroads, the impacts reach many of the short line and regional railroads. **This is a very expensive unfunded mandate. The estimated cost to equip these units is currently estimated at \$2.2 million. Literally, we will have to take monies we would normally use to repair and upgrade our tracks and infrastructure, and reallocate it to installation of PTC. Ultimately we could end up with safe locomotives, but with a less safe railroad to run them on.**”

“Locomotive installation costs are not the only costs we will have to account for. Short lines will be hiring consultants, training personnel, installing new communications, computers, office equipment and wayside equipment. Perhaps the largest and yet undefined expense will be for the operation and maintenance of the new system.

“PTC will be an enormous financial burden on our small businesses with very little impact on the safety of our railroad operations. Implementing the PTC mandate will take millions of dollars away from short line track rehabilitation that does more to improve railroad safety than any other expenditure we can make.”

(Source: Paul Victor, Presiden, Anacostia & Pacific Railroad Company, Inc., House Transportation and Infrastructure Subcommittee on Railroads, Pipelines and Hazardous Materials, [“Federal Regulatory Overreach in the Railroad Industry: Implementing the Rail Safety Improvement Act,”](#) 3/17/11)

Indiana

EPA Utility Maximum Achievable Control Technology (MACT) Rule

Indiana Chamber of Commerce

Indianapolis, Indiana

“We are definitely in opposition to [the MACT regulations] because it would be devastating for the state of Indiana. We get 95 percent of our electricity from coal.”

“The cost to convert those facilities would be passed on to the small business owners, or basically shut them [the coal energy producing facilities] down altogether. It would become cost-prohibitive for them [local businesses] to continue paying their electricity bills.

“This has got to affect tens of thousands of jobs in the area because, not only would you lose the employees from the coal facilities, the plants themselves would become more streamlined so you’d lose jobs there and, of course, the small and local businesses.”

(Source: Matthew Boyle, “White House, EPA ignore Small Business Admin’s report that new coal regulations will kill jobs, economy,” [Daily Caller](#), 8/11/11)

Iowa

USDA Grain Inspection, Packers and Stockyards Administration (GIPSA) Regulations

Natural Food Holdings

Sioux Center, Iowa

“In the summer of 2009, our business was not good and we were not profitable. This year, we are doing better, and I know it is because of both domestic demand and much improved exports of pork. In 2009, the price of hogs were some 30-35% lower than in 2010, and, we lost money. In 2010 with the improved demand we did better, because of the difference in market conditions, even when the price of hogs was higher! My point is this ‘the primary influence on the price of livestock is the demand for the finished products we produce’.

“This is a very tough business - for producers and for packers. We don’t need to enroll GIPSA, a government regulatory agency, in our business plan - enhancing our partnerships with producers for our mutual benefit is a much better solution.

“GIPSA’s (Grain Inspection, Packers & Stockyards Administration) attempt to regulate the future by returning the way things used to will be a bad economic decision that will not succeed.”

(Source: Gary Malenke, President & Chief Operating Officer, Natural Food Holdings, House Small Business Subcommittee on Agriculture, Energy and Trade, [“Regulatory Injury: How USDA’s Proposed GIPSA Rule Hurts America’s Small Businesses,”](#) 7/7/11)

Kansas

EPA Utility Maximum Achievable Control Technology (MACT) Rule

Sunflower Electric Power

Hays, Kansas

“Wayne Penrod is the Executive Manager of Environmental Policy at Sunflower Electric Power Corporation, a not-for-profit electric utility cooperative in central and western Kansas providing energy for over 400,000 people. Wayne is responsible for Sunflower's compliance with all state and federal environmental regulations. **Sunflower is battling the proposed MACT rule, which if implemented, would halt the continued development of their Holcomb Expansion Project, a coal-based electricity generating unit, costing approximately 2000 construction-trade jobs, 88 permanent jobs at the plant, and \$2 billion in private investment.** The proposed MACT rule will stop the financing and construction of all new coal-fired units in the U.S.

“Currently, there are twelve other similar projects worth more \$50 billion and 18000 jobs. House Republicans are working to deliver relief from the job-killing burden of regulations like the EPA's Utility MACT Rule. Last week, the House passed legislation to support job creators like Wayne. The Administration's new maximum achievable control technology (MACT) standards and cross-state air pollution rule (CSAPR) for utility plants will affect electricity prices for nearly all American consumers. In total, 1000 power plants are expected to be affected.”

(Source: “Wayne’s Story: New EPA Regulations Jeopardize Kansas Jobs,” [CNBC](#), 9/28/11)

Kentucky

IRS 1099 Reporting Requirement

B.O.L.D. Homes

Union, Kentucky

“In this economic environment, any additional administrative costs imposed on me will greatly affect the future of my company—and the jobs of my employees.

“National Association of Home Builders believes the new reporting requirements will impose significant paperwork burdens and costs on small businesses. Home builders are already familiar with reporting requirements as existing law has particularly focused on services. Nonetheless, the new requirement will substantially increase the reporting requirements on small home builders.

“Home builders will face an additional level of complexity and higher compliance costs due to how most small builders must structure their businesses. As a result of insurance, licensing requirements, and liability issues, many small builders have multiple, very small companies performing several functions.

“The burden on business stretches far beyond the scope of issuing additional 1099s. For the payees receiving the forms, they will face a substantial increase in forms that they will need to subsequently reconcile against their own records. And when errors occur—and there will certainly be errors—businesses will need to designate substantial time correcting the forms.”

(Source: Mike Kegley, President, B.O.L.D. Homes, Inc., House Committee on Small Business, [“Buried in Paperwork: A 1099 Update,”](#) 2/9/11)

Louisiana

EPA Cement Maximum Achievable Control Technology (MACT) Rule

Baker Ready-Mix and Building Materials

New Orleans, Louisiana

“A swarm of major new regulations coming out of Washington are threatening Baker Ready-Mix’s ability to stay in business and keep rebuilding New Orleans. Together, these sweeping rules will make it much more difficult for me to sell concrete, to give health coverage to my employees, and to grow jobs.

“EPA recently revised the definition of materials that can be burned for energy recovery in combustion units like boilers and cement kilns. Many nonhazardous materials that have traditionally been burned for energy recovery in cement kilns – such as tires, used oil, plastic, carpet, and wood waste – now have to be sent to a commercial/industrial incinerator unit. This means that cement plants will either have to replace these readily available materials with far more costly fuels or install new control equipment in order to qualify as an incinerator. Either way, their increased costs will be passed along to their customers, including Baker Ready-Mix.

“Because we are a small business, we can’t spread our increased costs over a large number of projects the way larger companies can. When you consider that a difference of as little as \$1 per ton of concrete can determine whether my company wins or loses its bid for a particular project, a cost increase of this magnitude would be disastrous. I may be put in the position of having to shrink my workforce rather than expanding it.”

(Source: Arnold Baker, Chief Executive Officer, Baker Ready-Mix and Building Materials, House Judiciary Committee, [“Hearing on H.R. 3010, the Regulatory Accountability of 2011,”](#) 10/25/11)

Maine

EPA Boiler Maximum Achievable Control Technology (MACT) Rule

Lincoln Paper & Tissue

Lincoln, Maine

“The costs may be high for Lincoln Paper, which already is facing stiff competition because of the globalization of the paper industry. **It may cost Lincoln as much as \$5 million to comply with the new EPA industrial-boiler regulation.**”

“They’ve come up with rules that are in large part unattainable. The cost to comply is almost double the company’s annual net income and its yearly budget for capital expenditures. That would mean reductions in investment and potential layoffs.”

(Source: Brian Wingfield, “EPA Rules Shows Regulations That Kill Jobs Can Create New Ones,” [Bloomberg](#), 11/29/11)

Maryland

IRS 1099 Reporting Requirement

Shipley's Fine Jewelry Hampstead, Maryland

“According to the government website, it only takes 18 minutes for me to fill out a 1099 form. Even so, that means approximately 500 more hours of work will have to be devoted to filling out those forms for my customers by my estimate.

“The 18-minute government estimate also does not include the time I will need to track each expenditure to the hundreds of suppliers I purchase from. Again, I will have to obtain that same personal information from each company I deal with.

“In addition to all the 1099 forms, I am told by my accountant that each 1099 form requires completion of a W-9 form. This is a request for taxpayer identification number and certification. Ultimately, the bookkeeping requirements mandated by this new law will require more than 1,000 hours of additional work. **My conservative estimate is that I will have to expend more than \$35,000 each year to comply with this new law. That is a significant blow to my net business income. At the moment, I do not know how I will be able financially comply with this mandate.**”

(Source: Seth Shipley, Owner, Shipley's Fine Jewelry, House Committee on Small Business, "[Buried in Paperwork: A 1099 Update](#)," 2/9/11)

Massachusetts

Draft Executive Order on Disclosure of Political Spending by Government Contractors

Beacon Interactive Systems

Cambridge, Massachusetts

“The executive order to disclose political spending by government contractors could, ‘put company management in the distasteful position of invading the privacy of their senior management by requiring disclosure of their personal political contributions.’

“This proposed Executive Order could have the effect of silencing the voice of small businesses who might, in an effort to mitigate potential contracting risk, no longer be comfortable making the grassroots contributions to advocate for the issues that are important to them.

“The proposed Executive Order requires me, as an example, to report individual contributions made by my company officers. As a small business owner, I do not want to force my employees to disclose their political leanings.”

(Source: M.L. Mackey, CEO, Beacon Interactive Systems, House Oversight and Government Reform Committee and House Small Business Committee, [“Politicizing Procurement: Will President Obama’s Proposal Curb Free Speech and Hurt Small Business?”](#) 5/12/11)

Michigan

FMCSA Hours of Service Rule

James Burg Trucking Company Warren, Michigan

“Today I will speak about the Federal Motor Carrier Safety Administration’s (FMCSA) proposed changes to the hours of service (HOS) regulations. These changes, if finalized, would have a profoundly negative impact on small businesses, would restrict productivity, and would result in greater congestion and increased emissions. **These impacts are significant since there are some 500,000 trucking companies in the United States and 99 percent of these companies are small businesses.**”

“The changes proposed by FMCSA would cause enormous productivity losses in the trucking industry. The Agency’s previously estimated that changes like the ones proposed would cost society over \$2 billion annually.

“The changes proposed by FMCSA would have virtually no benefit in terms of reducing fatigue-related truck crashes and, in fact, would create other types of truck safety concerns such as promoting aggressive driving and increasing the number of trucks on the road during peak hours of congestion. FMCSA’s own cost benefit analysis acknowledges that the safety benefits of the proposed rules would not outweigh the economic costs.”

(Source: James Burg, President, James Burg Trucking Company, House Small Business Subcommittee on Investigations, Oversight and Regulations, [“Do Not Enter: How Proposed Hours of Service Trucking Rules are a Dead End for Small Businesses,”](#) 6/14/11)

Minnesota

ED's Gainful Employment Rule

Capella Education Company

Minneapolis, Minnesota

“Capella, which is one of Minnesota’s 60 largest public companies based on revenue, expects to record a charge of about \$1.4 million during the fourth quarter but said that the work force reduction will result in an annual savings of about \$5.5 million.

“Capella has recently experienced declines in enrollment, which played a role in the company’s decision to cut 125 positions earlier this year. Some have attributed the school’s enrollment declines to uncertainty surrounding new regulations for for-profit schools that pertain to eligibility for federal loan programs.”

“During the third quarter, total enrollment decreased 7.5 percent to 35,755, while new enrollments decreased 36 percent compared to the third quarter of 2010. But those declines may be getting smaller: For the fourth quarter, the company expects total enrollment to drop by about 4 percent to 6 percent compared to the same period last year, while new enrollment is expected to decline by about 10 percent.”

(Source: “Capella to Lay Off 65 Employees,” [Twin Cities Business](#), 11/15/11)

Mississippi

EPA Clean Water Act 'Veto'

Mississippi Levee Board

Greenville, Mississippi

"The EPA stopped a vital flood control project in the Mississippi Delta, the Yazoo Backwater Project, claiming it would harm wetlands, leaving the residents of the South Delta the only people in the Mississippi River watershed without effective flood control in place. Under the Clean Water Act (Section 404(r)) the EPA is prohibited from vetoing any project approved by Congress prior to Dec. 27, 1977, when the environmental impacts of the project were made known to Congress before construction began. Such is the case with the proposed pumping station that the EPA is not allowing in the Yazoo Backwater Project. The Board of Mississippi Levee Commissioners is suing the EPA."

(Source: Pacific Legal Foundation, "Levee Board suing EPA over Yazoo Pump," [Mississippi Business Journal](#), 5/2/11)

Missouri

NLRB Union Notification Rule

Mittler Brothers Machine and Tool

Wright City, Missouri

“We have seen OSHA alliances with trade associations ended and a new line of regulations on small businesses and their employees from the NLRB. In the past, an inspector or auditor would visit our shop and work with us to correct any unintended violations. Today, they fine you first, and take no questions later.

“Small manufacturers such as Mittler don’t have the resources to keep up with every new rule and regulation coming out of Washington. **Larger companies have full teams to help them navigate the red tape. We feel like we should spend more time manufacturing and creating jobs than deciding whether or not a poster is being clearly displayed.** In addition to the direct impact the NLRB has on my company, it has a greater impact on my customers. If those larger manufacturers, for whom my employees manufacturer parts, close their doors due to a hostile environment for manufacturing companies, all the families at Mittler Machine and Tool will suffer.

“Regulations and decisions like these coming from Washington do not make for a happy workplace or improve quality of life for manufacturing employees. They are divisive, creating tension within our manufacturing family and driving a wedge between employers and employees. We are local small businesses who seek local solutions in a tight community where we often have multiple generations working at the same manufacturing plant.”

(Source: Mike Mittler, President, Mittler Brothers Machine and Tool, House Small Business Committee, [“Adding to Uncertainty: The Impact of DOL/NLRB Decisions and Proposed Rules on Small Businesses,”](#) 10/5/11)

Montana

FCC Regulatory Flexibility Act Consideration

Blackfoot Telecommunications Group

Missoula, Montana

“It is the view of our sector that the RFA (Regulatory Flexibility Act) is not doing what it was designed to do in terms of its application and interaction with regulations that emerge from within the Federal Communications Commission (FCC). And this view is backed up by a litany of regulatory proceedings. Far too often, rulemakings are issued by the FCC that appear to have given little real regard to the RFA and its requirements to thoroughly review the impact of proposed regulatory orders on America’s small community-based communications providers.

“Unfortunately, I believe that the requests of small businesses for lesser regulation are often lost in all the comments from the largest players in the industry that the regulations are not needed at all. **Following is a list of several of the FCC’s rules or proposed rules that have or would have a significant and unnecessarily damaging financial impact on small carriers: truth in billing, bill shock, slamming/carrier change verification, Customer Proprietary Network Information (CPNI), Communications Assistance for Law Enforcement Act (CALEA), marking and lighting of antenna structures, E911, and voice and data roaming.**”

(Source: Bill Squires, Sr. Vice President and General Counsel, Blackfoot Telecommunications Group, House Small Business Committee, “[Reducing Federal Agency Overreach: Modernizing the Regulatory Flexibility Act](#),” 3/30/11)

Nebraska

EPA Cross State Air Pollution Rule

Omaha Public Power District

Omaha, Nebraska

“Also attending the summit was Tim Burke, vice president for customer service and public affairs for the Omaha Public Power District.

“Energy generated by coal plants provides 70 to 75 percent of Nebraska's needs, with natural gas, wind and nuclear energy providing the remaining percentage.

“Burke said that for Nebraska, as the regulations were originally conceived under the Clean Air Interstate Rule, it had ‘very little impact’ on the amount of toxic pollutants that had to be cleaned from the emissions from state coal plants.

“But the rule that came out this summer, we saw almost twice the impact that were originally identified,” Burke said.

“Also a concern to Burke is the very short time frame power companies would have to implement the new environmental regulations. Because Nebraska energy officials believed the new rules would have little impact on the state as originally conceived until the new regulations came out in July, they did little to plan for the demands of the new regulations on state power plants. That put them behind, and Burke said catching up under the short time frame demanded by the new regulations would be costly to Nebraska power plants.

“It is a very short time frame for us to put those implementation plans in place, he said. Therefore, it is going to be a higher cost, a shorter time frame that will impact any pricing of any changes we need to make.”

“Also, he said, it will impact Nebraska energy consumers.”

(Source: Robert Pore, “New EPA regulations could be costly to G.I. power consumers,” [The Independent](#), 9/8/11)

Nevada

DOT Hazardous Materials Enforcement Fines

Pezonella Associates

Reno, Nevada

“Pezonella, in business for 35 years, offered himself up as an example of a businessman facing an increasing level of regulation and a more adversarial relationship with federal agencies as part of a project of the National Federation of Independent Business (NFIB) called Small Business for Sensible Regulations.

“In another recent encounter with the regulatory process, Pezonella said he was visited by a federal employee who wanted to inspect gauges used by his company for soils testing because they contain a small amount of a radioactive element that potentially could be a homeland security concern.

“But safety did not appear to be the main concern during the visit by the representative of the U.S. Department of Transportation, Pipeline and Hazardous Materials Safety Administration, Office of Hazardous Materials Enforcement, he said. **Instead, his firm was fined \$480 for failing to provide a proper shipping name. He was assessed another \$1,400 for failing to maintain a package document.**

“Pezonella said he fought the fines and ended up paying \$150. The state had just reviewed his business and gave him a top rating, he said.

“The biggest change is the attitude. I think at one time people were working together. Governmental people were here, but they were here to help. Now they seem like they’ve taken an attitude well, every time they step on your door, they’re here not to help you but to figure some way to fine you for something you did wrong. I think it’s them against us. Is it revenue generating? What is it for?”

(Source: Sean Whaley, “Reno Businessman Speaks Out As New Effort Launched To Fight Excessive Regulations,” [Nevada News Bureau](#), 10/25/11)

New Hampshire

ASMFC Total Allowable Catch Specifications

Yankee Fisherman's Cooperative

Seabrook, New Hampshire

"Fishery regulators have dealt another crushing blow to New Hampshire's small, struggling fishing fleet, slashing the amount of shrimp they can land this season to a third of what was landed last year.

"According to Bob Campbell, manager of Seabrook's Yankee Fisherman's Cooperative, along with being able to land only about 2,000 metric tons of native shrimp this coming season — as opposed to more than 6,000 metric tons last season — local fishermen were told they could land shrimp only three days a week instead of five during the shrimping season that has been reduced in length, extending from Jan. 2 to February.

"The regulation put on hold a major project the cooperative was pursuing, that of building and running its own fish processing plant and retail fish market. The hopes of many rested on the project, as fishermen, town and state officials saw the prospect as a way to help the state's 400-year-old fishing industry survive.

"This is all just a huge disappointment," Campbell said yesterday.

(Source: Angeljean Chiaramida, "Federal regs halt fish market expansion," [Newbury Port News](#), 11/18/11)

North Carolina

EPA Particulate Matter (PM 2.5) Rule

Charlotte Pipe & Foundry Company

Charlotte, North Carolina

“Some of the most economically threatening regulatory proposals are coming from EPA. Because manufacturing is such a dynamic process, involving the transformation of raw materials into finished products, it creates more environmental and safety issues than other businesses. Thus, environmental and workplace health and safety regulations have a disparate impact on metal casters, especially our small shops, because the compliance costs are not affected by economies of scale.

“We cannot produce castings without adequate and affordable supplies of natural gas and electricity. For many metal casters energy is a huge expense, only behind raw materials and labor in terms of costs of doing business. Melting is the most energy-intensive operation in metal casting operations, accounting for about 55% of the total energy use. Energy costs are highest in iron foundries such as Charlotte Pipe.

“If lower standards are implemented, it will be difficult for metal casters to expand and/or build new operations. In our example, naturally occurring levels in rural North Carolina, where we were considering building our new state-of-art foundry, are at 12.8 ppb. Clearly we cannot locate a plant on the area of real estate we own and meet these naturally-occurring background levels. Even if the standards remain unchanged, we have a window of 2.2 ppb to work with. Instead of 450 acres we would need 4,500 acres to comply with the proposed PM 2.5 regulations.”

(Source: Bradford Muller, Vice President of Marketing and Corporate Communications, Charlotte Pipe and Foundry Company, House Small Business Subcommittee on Investigations, Oversight and Regulations, [“Green Isn’t Always Gold: Are EPA Regulations Harming Small Businesses?”](#) 5/12/11)

New Jersey

Obamacare

Morey's Piers

Wildwood, New Jersey

“PPACA may force businesses like mine to provide health insurance to seasonal workers. This would lead to an immediate loss of jobs, including full time positions, due to decreased profitability and reduced attraction investment levels, leading to fewer jobs in the future.

“PPACA will cause the promotion of a ‘seasonal labor’ society where employers will schedule employees under 29 hours/week or terminate employment before 90 days, which will force the seasonal employees to get two or more jobs to work the hours they need to earn a living. This is not exclusive to the attractions industry; it will happen across the entire country, hurting both seasonal businesses and seasonal employees.

“The majority of these workers starts at minimum wage and may or may not have other jobs or income. We simply will not be able to determine whether they can afford the employee portion of the health care contribution.”

(Source: Will Morey, President, Morey's Piers, House Oversight and Government Reform Subcommittee on Health Care, District of Columbia, Census and the National Archives, [“Impact of Obamacare on Job Creators and Their Decision to Offer Health Insurance,”](#) 7/28/11)

New Mexico

EPA Regional Haze and Good Neighbor Provisions

San Juan Power Plant

Farmington, New Mexico

“The EPA recently announced they are ignoring the New Mexico Environment Department’s State Implementation Plan (SIP) in favor of their own much more stringent Federal Implementation Plan (FIP) for regional haze reduction. The EPA’s FIP will mandate that the San Juan Generating Station undergo major retrofitting to reduce nitrous oxide emissions in the name of improving visibility from National Parks and wilderness areas.

“This type of ‘at any cost’ requirements on utility companies will eventually cause the San Jaun power plant and others like it close. The Four Corners Power Plant on the Navajo Nation, for example, has already decided to close down 3 (out of 5) generation stations at that plant rather than comply with costly EPA requirements.”

(Source: Michael Hartranft, [“PNM Website Aims To Fight EPA Rule,”](#) Albuquerque Journal, 11/18/11)

New York

EPA Chesapeake Bay Regulations on Agriculture

Hourigan's Dairy Farm Elbridge, New York

“The single biggest point that I want to make at this hearing is that the amount of actual time that I and my family have to spend complying with various federal regulations has escalated to the point where I spend more time in an office, on a computer, and filing paperwork, than I do actually working with the cows, crops, and personnel that it takes to run my farm.

“I do not believe that each federal Agency that we deal with has a comprehensive understanding of what it is like to try to farm in this environment. I have to meet mandates from the U.S. Department of Labor, (for wage and hour paperwork) the Homeland Security Office (for completion of I-9 forms), the U.S. Department of Agriculture, (for various conservation and sanitation issues) the U.S. Department of Transportation (for DOT truck numbers, hours of service regulations) the Environmental Protection Agency (for nutrient management issues) as well as the various state compliance issues. While President Obama discussed this issue in his State of the Union speech in January, I can tell you that on the farm itself, we have not felt much if any impact from a lessening of governmental regulations and paperwork.

“As a family farmer, I and my neighbors care about the environment that we leave for our children to farm. We are not going to tolerate sloppy behavior, nor are we going to fail to do what is right on our farms to protect the environment, even when such practices are expensive to implement and are not paid for by the consumer dollar. **However, the EPA's over-reach on this issue is frightening to me, and to my fellow farmers, as with one single regulation originally proposed in the draft TMDL the EPA was willing to sacrifice over 900 farms in the Chesapeake Bay watershed.**”

(Source: Nancy Hourigan, Owner, Hourigan Farm, House Oversight and Government Reform Subcommittee on Regulatory Affairs, Stimulus Oversight and Government Spending, “[Regulatory Impediments to Job Creation in the Northeast](#),” 4/20/11)

North Dakota

EPA Spill Prevention, Control, and Countermeasure (SPCC) Rule

North Dakota Farm Bureau

Fargo, North Dakota

“Crop insurance and federal regulations are among big issues at the North Dakota Farm Bureau's annual meeting being held in Minot. The meeting began Friday in the Grand International Inn.

“Sandy Clark, public policy director for the N.D. Farm Bureau from Bismarck, said Friday, ‘We're going to talk a lot about crop insurance. We believe that we need a good crop insurance for risk management and that's always been a high priority for us. That will be one of the issues.’

“One of our huge issues is we have today so many regulations coming down, particularly from the federal government. **The Environmental Protection Agency just keeps coming down more and more. We call it the SPCC (spill prevention, control and countermeasures) where they have to put containment around their oil and gas and diesel fuel supplies. That's been very onerous for farmers and ranchers,**” Clark said.

“We work on a lot of those kinds of issues,” she said.

(Source: Eloise Ogden, “N.D. Farm Bureau’s annual meeting in Minot,” [Minot Daily News](#), 11/19/11)

Ohio

EPA Renovation, Repair and Painting Rule

Buschur Electric

Minster, Ohio

“EPA eventually revoked its opt-out rule, requiring all home renovations in pre-1978 homes to follow lead-safe practices, thus increasing the cost of renovations for homeowners that had no at-risk individuals. I have found this situation to be a prime example of a regulation that hinders my ability as a small business owner to add jobs and help get our economy growing again.

“As I witnessed the amount of time and money the general contractor exhausted in an effort to be compliant, I decided that my business would not become an RRP-compliant company. I expect many other similar companies will not either. **The expenses are outrageous, the amount of paperwork is far too burdensome, and the exposure to liability is too great for my business to take on.**

“Another area that has an adverse impact on small business job creation is the prevailing wage rules. With the slow economy the last couple of years, we have been forced to perform prevailing wage work in order to survive. These projects (we currently have 7 prevailing wage projects) create a lot of additional record keeping that must be sent to the prevailing wage coordinator, along with additional copies to the Division of Industrial Compliance and Labor, for when the unions file an audit request after the job is complete.”

(Source: Jack Buschur, President, Buschur Electric, House Oversight and Government Reform Committee, "[Regulatory Impediments to Job Creation](#)," 2/10/11)

Oklahoma

DOL Child Labor in Agriculture Regulations

Martha Valley Farms

Martha, Oklahoma

“If the U.S. Department of Labor's proposed changes to child labor regulations go into effect, it would be illegal for his nephew to continue lending a hand, Muller said. Changes would also prevent other young family members from spending the summer on Martha Valley and would stop the children from helping their grandfather plant and irrigate his farm, Muller said.

“The department is seeking comments through Dec. 1 on proposed changes that would stop children under 16 from doing what are considered to be the most dangerous farming jobs. Proposed changes include prohibiting young teens from riding on a tractor, herding and branding cattle, working inside a grain silo, working more than six feet off the ground and working with pesticides.

“The rule states that it applies only to hired farm workers and that children working on their parent or guardian's farm would continue to be exempt from regulations. However, the exemption does not apply to incorporated farms and many incorporated farms are also family operations.

“The changes are meant to make children safer, but many who have reacted to the proposed changes feel they are unnecessary. Critics say the rules will take from young teens the opportunity to fall in love with agriculture.

“I think there's people in the Department of Labor who have no real life experience or awareness of what goes on in a family farm, and in their zeal to protect children they're overreaching and misunderstanding how we take care of our kids and keep them safe.”
Muller said.

(Source: Casey Smith, “New labor rules threaten role of farm kids,” [Tulsa World](#), 11/28/11)

Oregon

EPA Boiler Maximum Achievable Control Technology (MACT) Rule

Boise Cascade

Medford, Oregon

“New rules covering industrial boilers could cost Oregon manufacturers — mostly wood products companies — as much as \$209 million in the near future.

“The EPA’s new rule might affect 30 boilers in Oregon, 28 of which are in the forest products industry. The rules govern mercury, dioxin, particulate matter, hydrogen chloride and carbon monoxide emissions. **Boise Cascade has three industrial biomass boilers that burn “hog fuel” or wood waste at its plant off North Pacific Highway ... The costs for reworking the boilers might be between \$1 million and \$1.5 million per unit.**

“We need to know the impacts of the modifications before we decide what we’re going to do,” Bruce Cartmel said (Western Oregon regional manager). “In the worst case we might decide it’s too much to spend and not do business anymore. I’m optimistic that won’t be the case, but I can’t say until we see the final rule that tells us what we need to do.” Boise Cascade spent \$20 million on dryer improvements during the past two years, he said, demonstrating its long-term commitment to operating in Southern Oregon.”

(Source: Greg Stiles, “Wood companies face higher costs from EPA rules,” [Mail Tribune](#), 9/29/11)

Pennsylvania

EPA Toxics Release Inventory Article Exemption Rule

Ellwood Group

Ellwood City, Pennsylvania

“So, while on one hand the Administration and others trumpet the need for increased use of alternative energy sources, agency regulatory proposals would make the very U.S. manufacturers necessary to build those alternative sources less competitive.

“EPA and the Office of Management and Budget (OMB) are in the final stages of considering a “clarification” of the Articles exemption pertaining to the Toxics Release Inventory (TRI). Should this clarification go into effect, virtually every manufacturer will be required to evaluate whether to file a TRI 313 Report, a process which will take significant investment in managerial, technical and clerical training and assessment. The estimated cost of this new assessment and reporting requirement on Fabricated Metals and Machinery Manufacturing companies alone is \$209 million, and 2.5 employee weeks for first-time filers.

“Under Community Right to Know regulations, these metallic constituents must be reported to local firefighters and State and Federal environmental agencies, and fines of \$32,000 per day are possible for paperwork violations. Yet the “articles” in question are in solid form, noncombustible and are not “released” in a fire or explosion. Thus a broad interpretation of “release” by EPA has the potential to create unnecessary alarm in the community and to jeopardize manufacturing operations, but with no readily apparent benefit to anyone.”

(Source: Michael Kamnikar, Senior Vice President, Ellwood Group, House Oversight and Government Reform Subcommittee on Regulatory Affairs, Stimulus Oversight and Government Spending, [“Assessing the Cumulative Impact of Regulation on U.S. Manufacturers,”](#) 3/19/11)

Rhode Island

CPSC Testing Rule

Pockets of Learning

Warren, Rhode Island

“Due to the financial impact of Consumer Product Safety Improvement Act (CPSIA) testing, Pockets of Learning is planning to reduce its product line from about 65 products to approximately 22 because of ‘the reality that CPSIA testing would typically add 30% or more to the cost of each item’ made in small production runs.”

“Large multinational manufacturers who make high volume items can absorb higher testing costs imposed by CPSIA. But the thousands of small businesses across the country that fulfill specific, niche markets are the untold casualties of this law. Worse yet, kids in need are losing access to essential teaching materials.”

(Source: Learning Resources Inc., [“Pockets of Learning Emptied by CPSIA,”](#) 11/19/09)

South Carolina

Obamacare

Find Great People

Greenville, South Carolina

“As we began to study the impact of healthcare reform on our business, we quickly recognized that there were some very significant and probably unintended consequences. First and foremost, the legislation will result in insurmountable increased cost to FGP due to the temporary staffing model.

“Based upon our historical volumes our monthly healthcare costs would increase by \$62,000 to \$76,000 per month. In addition, the administrative costs to comply with the regulatory and compliance aspect of the legislation would be over \$40,000 annually.

“Jobs will be impacted within our organization, both for our full-time and temporary staff. This could result in hundreds of jobs per year going away in the South Carolina economy. While we will not close our doors, 78% of our revenue is from our temporary staffing business. Healthcare reform will force us to change the strategic direction of our company and eliminate that part of our business because the risk does not justify the return.”

(Source: John Uprichart, President & CEO, Find Great People Intl, House Oversight and Government Reform Subcommittee on Health Care, District of Columbia, Census and the National Archives, "[Obamacare's Employer Penalty and Its Impact on Temporary Workers](#)," 10/6/11)

South Dakota

EPA Farm Dust Rule

Pete Lien & Sons

Rapid City, South Dakota

“One National Stone, Sand & Gravel Association member has calculated that in order to meet a reduced standard, a typical facility would have to reduce production by more than two-thirds. This would substantially change the business model, and lead to plant closure (and the loss of 50 jobs) or a dramatic increase in the price of product. Given that there are over 10,000 operations in the U.S., and virtually every congressional district is home to an aggregates operation, this could result in significant job losses.

“The dominance of natural dust sources (i.e. windblown dust from arid lands) and municipal unpaved roads is the main reason that some areas in the West and Southwest have been in continual non-attainment with PM10 standards since the late 1980s. There is no practical way to control these sources and reduce the PM10 ambient air concentrations; nevertheless EPA continues to promulgate unworkable standards that hurt job growth without health benefits.

“Taken further, a cut in aggregates production would lead to a shortage of stone, concrete and asphalt for state and federal road building/repair, commercial and residential construction, which in turn would cause an increase in the price of stone for these projects ranging from 80 percent to 180 percent and further suppress employment in the construction industries. Given that infrastructure investment is essential to economic recovery and growth, this additional burden on the aggregates industry comes at a time when both aggregates supply and jobs are of vital importance.”

(Source: Pete Lien, President, Pete Lien & Sons, Inc., House Energy and Commerce Subcommittee on Energy and Power, [“Farm Dust Regulation Prevention Act of 2011,”](#) 10/25/11)

Tennessee

USDA Lacey Act Enforcement

Gibson

Nashville, Tennessee

"Fear of over-regulation is hitting ... the guitar industry?"

"The iconic Gibson guitar is manufactured in the United States, but it has not been easy to keep it here.

"The action stems from enforcement of a revived Federal law (Lacey Act) concerning illegal logging, and Gibson was an early target.

"We are definitely paying the price to manufacture in the United States," CEO Henry Juszkiewicz told CNBC. "In the last two years, we have hired somewhere on the order of 300 to 400 new American workers."

"The real issue, in my mind, is the uncertainty and cost of government regulation, which has been increasingly intrusive.

"On the surface, this appears to be a nuisance, but Juszkiewicz says it's a lot more threatening than that.

"They (Federal government) have the possibility of actually destroying our business," he said of any possible court proceedings. (But) I am committed to this country. I'm going to continue to do my best and compete effectively here."

(Source: Brian Shactman, "Gibson Guitars Weeps Over Federal Logging Rules," [CNBC](#), 11/23/11)

Texas

EPA Cross State Air Pollution Rule

Luminant

Dallas, Texas

“Dallas-based electricity generator Luminant is closing two coal-fired power plant units and eliminating about 500 jobs in Texas because of a new federal air pollution rule.”

“In a news release Monday, Luminant said in addition to idling the power plants in East Texas, it will stop mining coal at three of its Texas mines.

“The moves are in response to the EPA’s Cross-State Air Pollution Rule, which was enacted in July. The government says the rule, which takes effect on January 1, will ‘protect the health of millions of Americans.’ It requires power plants to reduce polluting emissions.”

(Source: “Dallas Electric Company Closing 2 Power Plant Units & Cutting 500 Jobs,” [CBS DFW](#), 9/12/11)

Utah

FMCSA Hours of Service Rule

C.R. England

Salt Lake City, Utah

“When a Utah farmer named Chester Robert England decided soon after World War I that there had to be a better way to make a living, he bought a Model T truck and started hauling milk in the morning for a local dairy, then produce in the afternoon from farms to market. After 91 years, Salt Lake City-based C.R. England Inc. has become one of the most established and successful refrigerated truckers in the land. Yet Dean England, president of the privately held company and one of the third generation of Englands to work in the business, is under no illusions of how his grandfather would have fared if he began in 2011.

“Could he do it today?” England asks rhetorically. Then he answers: “I don't know. It might not work.” England has three sons employed at the company.

“Environmental compliance costs are just one of several government mandates that have hit truckers' pocketbooks. Others include CSA 2010, the new driver safety grading initiative; potential changes to drivers' hours-of-service regulations that could force truckers to add more rigs and drivers to their fleets; and requirements for drivers to install electronic recorders in each vehicle to monitor drivers' compliance with hours-of-service requirements.” The latter two initiatives are, or have been, subject to legal challenges by the industry.

“So much of the risk right now is coming from government regulations making life miserable for our business,” says England.

(Source: Mark B. Solomon, [“Mamas, don't let your babies grow up to be truckers,”](#) DC Velocity, 12/5/11)

Vermont

CPSC Testing Rule

Craftsbury Kids

Craftsbury, Vermont

“Cecilia Leibovitz was planning to sell bunches of her lovingly handcrafted bunnies this Easter, but new CPSIA lead testing regulations have threatened the existence of the cute critters. Her business, Baby Fairies, stopped making them because the testing is so expensive.

Leibovitz and her partner, Michael Secore, also run an online store called Craftsbury Kids, which represents about 100 artisans and handcrafters who make toys and clothing.

“Prohibitively costly lead testing will potentially put out of business thousands of handcrafters, artisans and small businesses which produce and sell children's products. Leibovitz's idea to ‘Save Small Business from the CPSIA’ was a winner in the recent Ideas for Change in America Competition on the website change.org.”

(Source: Kate Duffy, “Lead Law Worries Small Businesses,” [WCAX News](#), 1/19/09)

Virginia

EPA National Emission Standards for Hazardous Air Pollutants Compliance Monitoring

Titan America
Norfolk, Virginia

“The Great Recession has hit our industry very hard. Cement demand has dropped in half. Profitability has been wiped out. Yet, we sought neither handouts nor bailouts. **We cut costs, which sadly included more than 4,000 jobs. What remains are 15,000 well-paying jobs, with average compensation of \$75,000. But today, these jobs are in jeopardy, and the spillover could also affect millions employed in the construction sector.**

“Not only did the Stimulus Act fail to raise construction demand, but at our weakest moment, this government’s EPA—whose budget by the way was enriched 33% thru the same Act—launched an unprecedented regulatory attack against our industry.

“Our economic study of EPA’s rules concludes that: Two rules alone impose a compliance burden of \$5.4B in the next 4 years, equal to 85% of the industry’s total annual sales. They also increase production costs by 20%. One rule, NESHAP, will force almost 20% of U.S. plants to shut down in three years. The industry could lose 25%, or an additional 4000 jobs by 2015. Assuming economic recovery thru 2025, this reduced domestic cement capacity will force the U.S. to depend on foreign imports for 56% of its needs.”

(Source: Aris Papadopolous, CEO, Titan America LLC, House Oversight and Government Reform Subcommittee on Regulatory Affairs, Stimulus Oversight and Government Spending, [“Assessing the Cumulative Impact of Regulation on U.S. Manufacturers,”](#) 3/19/11)

Washington

DHS Import Security Filing Program

Open-Box Creations

Cathlamet, Washington

“We have to be creative and make our money stretch more than it used to. This becomes harder when there are expected and unexpected regulations and hidden government taxes and fees. For example, when I ship a container of our products from Thailand, there are fees that I expect to pay. Ocean freight, customs and duties, import broker fees and trucking fees. We keep our fingers crossed that the various government agencies will not delay our shipment, causing deadline delays to customer’s stores. Each time a shipment gets “scanned”, or inspected, the costs associated with inspecting, moving the shipment to the inspection location, and unloading/re-loading it is passed on to us. We are also charged daily fees for storing the containers while it waits to be unloaded and inspected.

“In the shipment that I just received last week, my unexpected government costs were \$1705.17. We have to pay it, no questions asked. \$822 of this amount was from the Department of Agriculture. The added inspection was due to our “Wood” vases. They unloaded the container, and opened a few boxes looking for “Raw Wood”. These are the same finished wood vases that we have been selling for the past 4 years. We understand that homeland security is crucial, however, before the economy took a downturn, we were not scanned as often. And we would have agreed that the customs scans and inspections were indeed random. Now, all our shipments are scanned/inspected at our expense, every single time. It feels like a government money-making scheme.

“There are many rules and regulations that we have to follow when importing goods into the United States. Last year the Department of Homeland Security and US Customs regulated the 10+2 Import Security Filing program (ISF forms). Where any ocean freight coming to the US has to have extra forms filed by the importer before the container is loaded in the country of origin. The information that the form asks for is not determined until you load the container and register it with the shipping company. Shipping companies will not give the information until 3-4 days before sailing. Thus making the filing of any ISF forms extremely difficult.”

(Source: Dixie Kolditz, Owner, Open-Box Creations, House Small Business Committee, [“Putting Americans Back to Work: The State of the Small Business Economy,”](#) 2/16/11)

West Virginia

OSM Stream Protection Rule

International Coal Group
Scott Depot, West Virginia

“Permit delays and regulatory uncertainty are thwarting capital investment that will create and sustain the high-wage jobs needed and valued in our coal communities. At a time when our nation is recovering from a deep recession and requires low-cost and reliable fuel to remain globally competitive, agency policies are crushing these job-creating enterprises that will be the engine for our economic growth and prosperity.

“The stream protection rule is the most far reaching rewrite of the agency’s regulations in the last 30 years. Far from providing more regulatory clarity, it fundamentally changes longstanding interpretations of the law and prohibits widely accepted mining techniques. In OSM’s (Office of Surface Mining) own words, this rule is ‘much broader in scope than the 2008 stream buffer zone rule,’ and will apply nationwide in scope.”

(Source: Eugene Kitts, Senior Vice President, International Coal Group, Inc., House Natural Resources Subcommittee on Energy and Mineral Resources, [“Effect of the President's FY-2012 Budget and Legislative Proposals for the Office of Surface Mining on Private Sector Job Creation, Domestic Energy Production, State Programs and Deficit Reduction,”](#) 4/7/11)

Wisconsin

IRS 1099 Reporting Requirement

MCM composites

Manitowoc, Wisconsin

“Estimates of the cost of federal regulations range from \$ 1 trillion (Heritage Foundation) to \$1.75 trillion (Small Business Administration) per year. This represents around 7% of our annual GDP. Burdensome regulations are a stealth tax on every person in this country. The cost of regulation incurred by all businesses is eventually passed on to the consumer and our workforce. Regulatory costs require business owners like me to devote more time and resources to government compliance, which means less capital devoted to investment and job creation.

“Our company deals with approximately 375 different vendors. This year we issued 11 1099 forms. It took 3 hours to assemble the information and type the forms. It would take 2 weeks to prepare 1099’s for all of our vendors. This requirement, which had no place whatsoever in the health care bill, will add \$2,400 (80 hrs @ \$30 per hour) to our regulatory burden.

“We have a system and it works. It is efficient. We do not need more burdensome regulation to mirror what we are already doing. Engaging my employees in additional government-required activities rather than focusing on their jobs will decrease productivity, and make us less able to compete and win business. Jobs will be lost or not created at MCM Composites, LLC.

“Most of the electricity we use is generated by a coal-fired power plant. Enhanced EPA regulations increasing the cost of producing electricity using coal will be passed on directly to our company and added to our regulatory burden and make it more difficult for us to compete in the world market. Rising energy costs mean fewer jobs added at MCM Composites, LLC.”

(Source: Michael J. Fredrich, President, MCM Composites, LLC, House Oversight and Government Reform Committee, "[Regulatory Impediments to Job Creation](#)," 2/10/11)

Wyoming

FCC Net Neutrality Rule

LARIAT

Laramie, Wyoming

“Unfortunately, I am here to tell you today that the ‘network neutrality’ rules enacted by the FCC will put WISPs (wireless internet service provider) efforts to provide competitive broadband, and to deploy it to rural and urban areas that do not have access or competition, at risk.

“We will also hesitate to roll out innovative network management practices and services, for fear that the Commission would find fault with some aspect of them. For example, selling priority delivery of data – even for a new high tech service, such as telepresence– is strongly disfavored by the rules. This is the equivalent of telling UPS or FedEx that they cannot offer shippers overnight delivery, because it is somehow unfair to those who use less expensive ground service.

“There are other problems in the rules, but due to limited time I can only mention one more. That is that the rules are not evenhanded. There are carve-outs for mobile carriers, who are claimed to be part of a nascent industry that faces significant challenges. But ironically, these exemptions were not extended to fixed wireless providers such as WISPs. Mobile phones’ market penetration is far higher than that of WISPs, who are still working diligently to achieve similar market share and recognition. And WISPs’ customers expect higher performance than mobile customers, even though our service is delivered over noisy, shared unlicensed spectrum. If mobile wireless providers deserve special consideration, then WISPs certainly do as well.”

(Source: Laurence Brett Glass, Owner, LARIAT, House Judiciary Subcommittee on Intellectual Property, Competition and the Internet, [“Ensuring Competition on the Internet; Net Neutrality and Antitrust,”](#) 2/15/11)