

on millions of businesses and other ‘facilities,’ including apartment buildings, office buildings, and even churches. Farmers will also be entangled in costly regulations.”⁵

There’s only one problem. The claims are false. Every one of the Heritage Foundation’s charges, italicized above, is just plain wrong. The truth is that EPA has *exempted* all small sources of carbon pollution from permit requirements for new and expanded sources. Instead, directly in line with congressional intent, EPA has focused those permit requirements on only the largest new and expanded sources of carbon pollution, such as power plants, oil refineries, and other big polluters.

Let’s be clear about what the Clean Air Act actually requires. When a company wants to build or expand a big plant that will operate for decades, it is only common sense to take reasonable steps to reduce how much dangerous pollution it will put into the air. So for decades, the Clean Air Act has required that someone – either the state’s environmental agency or the EPA as a last resort – review what the new or expanded plant can reasonably do to reduce its pollution, and put achievable and affordable emission limits into a construction permit.

Congress adopted this sensible safeguard in the 1977 Clean Air Act amendments, and it applies to each pollutant that is “subject to regulation” under the Act. Starting this year, when EPA’s greenhouse gas standards for new cars took effect – and I will say more about those clean car standards in a moment – the construction permit review of available and affordable pollution control measures also applies to the largest sources of carbon pollution, like new power plants, oil refinery expansions, or other large projects. This is the same review that has been undertaken for decades other pollutants.

What does EPA mean by “big” carbon pollution sources? The review of carbon pollution controls that began in January applies only to new sources or expansions that already need a permit because they emit large amounts of other pollutants, and even then only if they will also increase carbon pollution by at least 75,000 tons/year. Later this year, permits will also be required for new or

⁵ Letter from James Gattuso & Diane Katz, Heritage Foundation, to Chairman Darrell Issa, p.6 (Jan. 11, 2011) (emphasis added).

expanded sources that *don't* need permits for other pollutants but will increase carbon pollution by at least 100,000 tons/year.

In crafting these thresholds, EPA has taken great pains to be sure that only the largest new and expanded industrial sources will be reviewed. How high are these thresholds? High enough to exempt everyone the Heritage Foundation claims to be concerned about – “*apartment buildings, office buildings, and even churches.*” America’s farmers are also exempted. Even the largest animal feedlot operation in America has greenhouse gas emissions below these levels. The truth is, small sources simply are not covered.

Yet EPA has been sued by dozens of trade associations, companies, and right-leaning advocacy groups representing the country’s biggest polluters. Last year those groups, together with the State of Texas, tried to get a “stay” – like a preliminary injunction – from the U.S. Court of Appeals in Washington. To get a stay, you have to show that you will be irreparably harmed if Clean Air Act safeguards are not blocked. They filed hundreds of pages of briefs and affidavits attempting to prove the claims they have made in their letters to Chairman Issa.

But when put to the test of *proving* those claims, they failed. After sorting through all the papers, the court found no merit in their claims of harm from the requirement to put available and affordable pollution control technology on big new factories. The December 10, 2010, order denying the stays says this:

Petitioners have not satisfied the stringent standards required for a stay pending court review. ... Specifically, with regard to each of the challenged rules, petitioners have not shown that the harms they allege are certain, rather than speculative, or that the alleged harms will directly result from the actions which the movants seek to enjoin.

This is no surprise, because the court challengers – like the lobbyists who come up here – are seeking not relief for the small fries, but special favors for the biggest polluters – power plants, oil refineries, and the like. These pollution giants cannot complain to the courts about EPA’s exempting

smaller sources, because the giants are not harmed by it. Their attempt to hide behind the skirts of small businesses should fare no better here on the Hill.

After all, it's hard to hide an oil refinery behind a donut shop.

Even if some of the witnesses here today admit that small businesses are exempt from EPA's carbon permit review, I expect to hear claims that they still will be affected indirectly because the large sources will have to pass on supposedly crushing costs in electricity and gasoline costs, for example. That is also a false story-line for two reasons.

First, the Clean Air Act does not demand the impossible. It limits pollution controls on the big sources to what is *available* and *affordable*. This is one reason why our economy has tripled in size over the last 40 years while we've reduced many forms of pollution by 60 percent or more.

Second, because the costs of carbon safeguards will be minimal, any costs actually passed along to small businesses will be very small. Let's look first at small *manufacturing* firms, whose energy costs are likely to be much larger than for the average small business. A federal interagency study found in 2009 that for 96 percent of *all* manufacturing firms – firms that employ 93 percent of America's 13 million manufacturing workers – energy costs average *less than 2 percent* of the value of the goods they produce.⁶ That means the maximum effect from the carbon pollution safeguards at power plants will be only a small percentage change in an already small percentage of manufacturing costs.

The impacts on *non-manufacturing* small businesses, with lower energy costs to start with, will be even less. And these businesses have opportunities to lower their overall energy bills significantly through smart programs to make energy use more efficient – to cut air conditioning, heating, and lighting costs in buildings, for example.

⁶ The Effects of H.R. 2454 on International Competitiveness and Emission Leakage in Energy-Intensive Trade-Exposed Industries," p. 2 (Federal Interagency Report, December 2009, available at: http://www.epa.gov/climatechange/economics/pdfs/InteragencyReport_Competitiveness-EmissionLeakage.pdf).

And this brings me to my final example: thanks to EPA's carbon pollution standards for new cars, small businesses will save big-time at the gas pump. Under the landmark Clean Car Agreement brokered by the Obama administration, EPA, acting together with the Department of Transportation (DOT) and California, has set combined carbon pollution and fuel economy standards that will lower gasoline bills for American small businesses and families by *billions of dollars*. The first round of standards, for 2012-2016 model cars, SUVs, vans, and pick-ups, will use so much less gasoline that small business owners will save as much as \$3,000 over the life the vehicle. Carbon pollution from new vehicles will be cut by 30 percent by 2016, and over the life of the vehicles the country will save *1.8 billion barrels of oil*.⁷

EPA's clean car standards for 2017-2025 will save small businesses even more – as much as another \$7,400 per car, and cut national oil dependence by billions of barrels more.

I should note that these calculations were based on gasoline costs starting at \$2.61/gallon! Where can you find that anymore? At today's and tomorrow's higher gas prices, the savings will be even greater.

You've heard complaints here today from a representative of the trucking industry. But EPA's carbon pollution safeguards mean huge savings for them. That's because EPA is also working with DOT and California on the first-ever carbon pollution and fuel economy standards for over-the-road trucks. Those standards, proposed last year, will save the owner of a heavy-duty truck up to \$74,000 over the truck's useful life. The nation will save 500 million barrels of oil over the same period.⁸ The money

⁷ EPA and NHTSA Finalize Historic National Program to Reduce Greenhouse Gases and Improve Fuel Economy for Cars and Trucks (Apr. 2010), <http://www.epa.gov/otaq/climate/regulations/420f10014.htm>.

⁸ EPA and NHTSA Propose First-Ever Program to Reduce Greenhouse Gas Emissions and Improve Fuel Efficiency of Medium- and Heavy-Duty Vehicles: Regulatory Announcement (Oct. 2010), <http://www.epa.gov/otaq/climate/regulations/420f10901.htm#2>.

saved on diesel fuel will stay in the pockets of truck and fleet owners, will make them more competitive, and will enable them to pass on savings to every American in lower costs for food and other goods.

To help even more, last Friday President Obama announced a new initiative specifically to help small trucking companies get access to the new cleaner and more fuel efficient trucks at group rates, to match the prices available to larger companies, and to assist them with financing those purchases.⁹

Conclusion

Chairman Jordan, Ranking Member Kucinich, and members of the subcommittee. The Clean Air Act has been a tremendous investment for American public health and for the American economy. Congress wrote the Clean Air Act to safeguard us not only against the pollutants we knew about 40 years ago, but also from the pollution that modern science demonstrates is dangerous. That includes the carbon pollution – the greenhouse gas emissions – that EPA is now beginning to address under the nation’s air pollution law. As the Supreme Court’s found, Congress gave EPA a job to do, and thankfully EPA is now tackling that long-overdue task.

Congressmen, you deny the science at your peril. Likewise, you buy into phony story-lines about burdens on small business at your peril. As I mentioned at the outset, large majorities of the American people support the Clean Air Act and want EPA to do its job to control air pollution. They specifically want EPA to do its job to safeguard us from *carbon* pollution. I’ve appended this polling data to my testimony as food for thought, and I welcome your questions.

⁹ White House, FACT SHEET: National Clean Fleets Partnership (Apr. 1, 2011), <http://www.whitehouse.gov/the-press-office/2011/04/01/fact-sheet-national-clean-fleets-partnership>.