

My name is Mike Bergmeier. My wife, Angie, and I live in rural Hutchinson, KS and we own Shield Agricultural Equipment in South Hutchinson, KS. ShieldAg is the definition of small manufacturing, with 44 full-time employees, designing and manufacturing sustainable agriculture tools for Ag Equipment dealers and distributors.

I am not here today for me. I am here today for my children, and, eventually, my grand-children.

We live and work in the greatest nation in the world. The economy of the United States was built on the THREE super-sectors that “create wealth” in the world:

Economists and the Bureau of Labor Statistics call these sectors THE BIG THREE:

- **Mining** includes coal/iron ore/gold/rare earth elements extraction, timber, oil/gas/coal/wind/solar/water and quarrying
- **Agriculture** includes “what we think it does (farming)” and also fishing, vegetables and hunting and the direct support industries to agricultural practice
- **Manufacturing** is adding labor, energy and technology to natural resources and agricultural products, and also includes construction activities—MAKING SOMETHING.

I am proud to own a business within one of the Big Three, in direct service to another wealth-creation sector, Agriculture.

SO WHAT IS THE POINT?

Everything else out there, EVERYTHING that is NOT part of the big three, does NOT create wealth. EVER. All it does is re-distribute the wealth and “move it around”. Government spending NEVER creates wealth, EVER. **The service sector creates NO NET WEALTH, EVER.** The only way to CREATE wealth is to create it out of something tangible, hard, grow-able and renewable.

When a president or politician from either party talks about CREATING JOBS, I worry. Because Government/service/retail sector jobs (and spending) do NOT create wealth for the human race. And the more the “jobs” balance shifts in that direction, the poorer we become as a nation.

That is why I am here for my children. I am here to testify on their behalf. I am not here for me. I grew up working for a living. No matter how much you tax me or my business, or try to regulate me out of business, I will continue to work for a living and own a business. I’m used to over-regulation, taxation without representation and burgeoning social welfare programs. I’m here to tell you why my children might not have the same opportunities to own a business and employ people. I’m here to tell you why my employees might not have that same opportunity, or even the opportunity to work in manufacturing in the future.

At Shield Ag, we are proud of our employees that trade their skills and labor for a paycheck. I work FOR my employees, and we think of that every day. I work FOR my customers and suppliers, and we are proud of our Made in USA label and our USA and North American supply chain.

In the past 15-years, ShieldAg has purchased two other Kansas-based small manufacturers with complementary products, as the owners of those businesses retired or discontinued operations. We, of course, focus on profitability, but we also desire to retain those manufacturing jobs in Kansas. ShieldAg also has a partnering private-label agreement with another manufacturer based in Iowa, so that we can assemble, market and service a portable grain handling product line Made in USA.

www.farmtime.com is an agricultural social network that Shield supports and incubates, to bring farmers together on a website and keep each other up-to-date on issues related to agriculture.

You can read into this that our focus is on growing and supporting manufacturing jobs related to modern, sustainable agriculture.

With all respect, please allow me the time to discuss those governmental functions that inhibit the ability for me to grow my business, and you will see the danger down the road for my children. When I hear politicians ranting about over-regulation, I get it, but it is difficult for most politicians and business leaders to “pin it down”. What is “IT”? I hear politicians talk about over-regulation, but it seems that there are no specifics, just talk about having too many of them.

I liken these government regulations to the Easter Red Cedar (a species of tree).



Cedar trees supply wind breaks and shelter for farms and domestic and wild animals where I live in South Central Kansas. Having more of them seems to be a good thing. More protection from the elements, more places for poor little animals to inhabit. I have plenty of Cedar trees on my rural homestead in Eastern Reno County Kansas. The problem is that one Cedar tree, left unattended, becomes about a dozen within a year, and then 100 within a few years and thousands of them within a decade. And you get to the point that you cannot maintain your farm or ranch and your livestock, and the predators have a field day with your game animals. The bluestem grass quits growing because the Cedar trees suck up all of the resources needed for your hay crop to flourish. You have to spray more invasive weeds, because they will grow where the grass won't. And you look back on it and you say “where did all of these Cedar trees come from?” And you cannot pick out any ONE Cedar tree that is the culprit. The only real option is to get out the chain saw and cut down as many as you can, without much regard for “good trees” or “bad trees”. People will ask me in church, “why are you out there cutting down all those trees, aren't they good wind breaks and protection?”. It's because my quarter of grassland became dysfunctional and I had to “Do Something” to bring it back to the point where it served the original purposes.

A sampling of the forest of laws and regulations that keep me from expanding my business:

Patient Protection & Affordable Care Act of 2010:

If you think “for a New York Minute” that I will ever expand my small business to have 50 or more full-time employees, you would be wrong. My peers in small business tell me the exact same thing. Any benefits to PPACA aside, this is the real issue. ShieldAg will have 45 full-time employees and 4—15 part time men and women that work for an employment service and make a good wage building our products. Recall that I feel that my wife and I work FOR our employees. I pay for my health insurance right out of my own pocket, just like my employees, so that Angie and I “feel the pain” of rising health care premiums and reduced services. This helps us make better decisions on behalf of all of our employees. So here is the real problem with PPACA:

1. It hurts the people you are trying to help the most, folks in the lower and middle income classes. Like most social welfare programs, you enslave the future generations of the very people you are trying to help. Those 4—15 part time men and women will not have access to our very good company-sponsored health care insurance. Because we won't hire them on full-time.
2. I won't expand beyond a certain size, and I make decisions based on the impact of government regulation rather than what is best for my employees, customers, suppliers and family.

That is REAL and it is happening all across the spectrum of small business in the USA. The other negative impact of PPACA is the additional costs a small business will bear at full effect. As my company-paid total health care insurance premiums increase by the estimated \$45,000 per year, that is one person I cannot hire. It is that simple. I have to make payroll every Friday and pay my suppliers on time.

Now, let's discuss the good old Eastern Red Cedar again.

The following is a list of just a few of the new forest of regulations and interpretations of regulations that, even if PPACA did not keep me from expanding and adding employees, are impediments to growth. They are not in any particular order, as all have potentially onerous effects on any future expansion:

1. EPA RIN 2040-AF13: Storm Water Runoff revisions of Section 402(p) of the Clean Water Act. I guess that as a business owner, I am now seen to be even more in charge of the weather.
2. EPA RIN 2040-AF25: National Pollution Discharge Elimination System
3. EPA RIN 2050-AG52: Revisions to Hazardous Chemical Reporting
4. EPA RIN 2060-AQ11: Risk and Technology review for foundries
5. DOL/OSHA RIN 1218-AB67: Electrical Power and Distribution Protection
6. DOL/OSHA RIN 1218-AB80: Trip, Slip and Fall Safety Systems Improvement
7. Revisions to the National Ambient Air Quality Standards for Particulate Matter (Dust), under Title I of the Clean Air Act. By the way, it is 522 pages long and impossible to interpret.

Large companies will complain about a lot of this stuff too. The difference is that a small company does not have lawyers on retainer, direct lobbyists in Topeka, KS and Washington, DC, an environmental engineer on staff, or a department full of safety inspectors. It's just me and my team of very good managers working every day to build quality products and make payroll every Friday. There are at least 200 rules, laws and regulations "out there" that my business falls under. If I were to overcome the cost issues with PPACA and had the opportunity to expand my plant, property and equipment, I would end up spending my time and considerable funding (true opportunity costs) to comply with OSHA, EPA, DOL, and even Health and Human Services regulations as I attempted to expand. The permits, government scrutiny and costs are just not worth the trouble.

If my growth opportunity overcomes PPACA and the expansion would be large enough to afford the issues with government regulation directed at my business, I have to line up the financing. After the meltdown of 2008, my bankers spend more time on the banking regulations that regulate regulations (not a grammatical error) than they do in processing business loans. The process has slowed significantly in the last 5 years, and that has to hurt the overall expansion of business in the macro-economic sense.

And it's not just with business expansion opportunities, new (and existing) laws and regulations affect my everyday operations. In the addendum to this testimony, you will find a letter (redacted to protect my customer) my company received from one of my customers. Within that letter, I am directed to report the use of "conflict materials" in accordance with Section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010. What? I'm just a blacksmith. How can a law intended to reform Wall Street Practices affect me. I won't bore you with the details; you can read in the addendum how I have a legal responsibility as a small manufacturer to protect the Democratic Republic of the Congo. And, yes, I complied, and yes, I reported appropriately.

No big deal, right? I just have to report that I don't use any of the "conflict materials".

It is another Cedar tree. The affect is widespread. It means that my customer has to gather a lot of information from 1000's of suppliers (someone has to do it), and they are a paid employee of my customer. I have to report it, which is a true opportunity cost; I cannot work on something useful and beneficial to my company while I'm trying to figure out what to report and to whom. And I have plenty more Cedar trees to cut down.

The Federal Tax Code (Title 26) is incomprehensible and nearly impossible to comply with unless a small business owner makes sure that we "overpay" as protection. If my tax money was being used to improve real infrastructure, help people completely incapable of helping themselves, really improve safety and security of this United States, or invest in technology that improves the lives of my children, I would pay more, with cheer. This forest of Cedar trees is just too thick, I cannot pick out the one rogue tree that started it all. When you increase my taxes, I just react, by NOT hiring the next person, by NOT purchasing a new piece of equipment to improve my operations and by NOT expanding into new opportunities. Because, I have to make payroll every Friday and I have to pay my suppliers on time.

As I fear that my kids won't have an opportunity to own a small business or work in one of the "big-three" wealth creation industries, due to burdensome government regulation and law, I also worry that their education will not position them to be future leaders.

The education system in the USA is broken. We spend more money per capita on education than ANY of the other 11 most-developed countries of the world, with lesser outcomes than most of the other 11.

I sat on a local school board for 8-years and lead the board (as president) for 4-years of budget-cutting crisis. The most frightening part of my 8-year tenure was the consistent "socialization of learning" due to No Child Left Behind and Adequate Yearly Progress laws (and regulations). These unfunded Federal mandates have had the opposite of their intended effect. Frustrated teachers can no longer create the optimum learning environment in their classrooms. Inordinate amounts of time are spent "teaching to the test" so that the district is not penalized for poor test scores. Children are really being taught to "all be the same", measured to the same standards while us grownups try to negotiate the standards downwards so that all children can pass them. Equal opportunity means just that. It is NOT intended to mean "equal outcomes guaranteed". Where are the future business leaders in that equation?

Throughout my testimony, you did not read (or hear me) make any demands of my Representation in Congress. Except for this one. I implore you to completely gut NCLB and AYP standards. They are dangerous to the future of the USA as a world leader. No Federal standards for education. Allow the States and the locals to determine what is best for the life-long learners we are trying to raise.

In closing, I gotta' tell you the truth: **You don't owe me nothin'.**

I was born with nothing, raised in a great family environment, educated at a small rural school, and I graduated from the finest Land-Grant University in the USA in 1983 and moved to Hutchinson, KS with nothing but a college degree from Kansas State and a used pickup truck. You can over-tax and under-serve me, I really don't care. Because I love my family and I love my employees and other stakeholders, and I will continue to work and make a living because that is what I do. And the USA continues to be the greatest country in the world in which to own and operate a small business.

I will leave this life someday and report to God with nothing, and that is fine by me.

What I'm asking you to consider is making sure that my children, grand-children and future generations of Americans have the same opportunities that I have, and that you don't over-tax and regulate business to the extent that nobody wants to take the risk in the future to join in the Great Triangle of wealth-producing industry.

We all owe that to our children.

[REDACTED]

May 1, 2013

Dear Supplier,

We want to ensure that you are aware of a new law that requires [REDACTED] to file certain sourcing information with the U.S. Securities and Exchange Commission ("SEC"). On August 22, 2012, the SEC adopted final rules to implement section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010. This law imposed a new reporting requirement on all manufacturers who file reports with the SEC. Manufacturers must now disclose whether the products they manufacture or contract to manufacture contain minerals whose sale proceeds may be used to fund armed conflict in the Democratic Republic of Congo ("DRC") and surrounding countries. Derivatives of such minerals, identified as "conflict minerals," include gold, tantalum, tungsten and tin. Additional materials may be identified in the future at the discretion of the U.S. Secretary of State.

These requirements were enacted to further the humanitarian goal of ending violent conflict and human rights abuses in the DRC and surrounding countries, which have been partially financed by the exploitation and trade of conflict minerals.

[REDACTED] is subject to this new "conflict minerals" reporting rule. To comply with this law, [REDACTED] must seek information from our direct suppliers on whether the goods they sell to [REDACTED] contain "conflict minerals". In order to provide [REDACTED] with such information, we anticipate that our direct suppliers will have to seek applicable information from the next tier of suppliers. The reporting requirement exists regardless of where components and materials are purchased and regardless of the extent to which "conflict minerals" are contained in the goods purchased from you.

As an **immediate action, required by May 15, 2013**, each supplier needs to send contact information for a designated conflict minerals representative for your company to [conflictmineralsreporting@\[REDACTED\]](mailto:conflictmineralsreporting@[REDACTED])

You are strongly encouraged to take action to understand the conflict minerals legislation. You may seek out additional information through the National Association of Manufacturers (www.nam.org); the Automotive Industry Action Group (www.aiag.org); or other knowledgeable industry forums. Please direct any questions to [conflictmineralsreporting@\[REDACTED\]](mailto:conflictmineralsreporting@[REDACTED])

Thank you for your support on this critical reporting requirement,

[REDACTED] Chief Purchasing Officer [REDACTED]