Testimony

of Kellie Johnson
President
Ace Clearwater Enterprises

before the House Committee on Education and Workforce

on Expanding Opportunities for Job Creation

February 1, 2012

COMMENTS OF KELLIE JOHNSON, PRESIDENT OF ACE CLEARWATER ENTERPRISES BEFORE THE

HOUSE COMMITTEE ON EDUCATION AND WORKFORCE

FEBRUARY 1, 2012

Good morning Chairman Kline, Ranking Member Miller and distinguished members of the Committee. Thank you holding this hearing today.

I am Kellie Johnson, president of Ace Clearwater Enterprises based in Torrance, California. Established in 1949, Ace Clearwater employs 205 people who manufacture, in three facilities located in Southern California, complex formed and welded assemblies for the aerospace and power generation industries. I have been leading Ace Clearwater since 1985 and am proud of the fact that it has become the manufacturer of choice for some of the United States' largest aerospace companies.

I also serve as a member of the National Association of Manufacturers' (NAM) Executive Committee and Chair of NAM's Small and Medium Manufacturers Group. In addition, I am the Co-Chair of the Manufacturing Council's Subcommittee on Competitiveness. On behalf of small and medium-sized manufacturers, thank you for the opportunity to discuss the current concerns and struggles facing manufacturers today. The United States is the world's largest manufacturing economy, producing 21 percent of global manufactured products. Manufacturing supports an estimated 17.0 million jobs in the U.S.—about one in six private-sector jobs. Nearly 12 million Americans (or 9 percent of the workforce) are employed directly in manufacturing – this is roughly the equivalent of the entire populations of Pennsylvania, Illinois or Ohio.

Based on these numbers, the NAM developed a "Manufacturing Renaissance," setting forth a four-point plan for economic growth and jobs, which will enable the U.S. to compete and succeed in the global economy. The plan focuses on "investment, trade, the workforce and innovation. It sets a path for sustained global competitiveness." The goals are as follows:

- Goal 1: The United States will be the best place in the world to manufacture and attract foreign direct investment.
- Goal 2: The United States will expand access to global markets to enable manufacturers to reach the 95 percent of consumers who live outside our borders.
- Goal 3: Manufacturers in the United States will have the workforce that the 21st-century economy requires.
- Goal 4: Manufacturers in the United States will be the world's leading innovators.

I would like to focus my testimony today, however, on the issues facing small and medium-sized manufacturers. There are several structural cost disadvantages that our largest trading partners do not face. These costs and disadvantages stem from the imposed costs from Washington through constantly changing regulations. As an example of the disadvantage, according to the Small Business Administration the costs for small business to comply with these regulations are 110 percent higher than those of medium-sized companies and 125 percent higher than large companies.

We need a positive message from Washington and our success will depend on the method and the extent to which we can cooperatively address the concerns and consequences of these regulations affecting manufacturers like Ace Clearwater. The uncertainty of our regulatory and economic environments makes it almost impossible for short or long-term business growth, especially for a capital intensive industry like manufacturing. As a result, my customers may make the decision to migrate to places they believe care more about manufacturing.

The regulations coming out of Washington are challenging, time consuming, complex, sometimes redundant, constantly changing and uncertain. For example, take the health care law passed two years ago. There is so much uncertainty about how this law will be implemented it makes future planning for businesses and employees nearly impossible.

As manufacturers, we need stable and predictable pro-growth policies to create jobs and remain globally competitive. We find ourselves, however, stuck between the rock of crushing economic circumstances and the hard place of inflexible and proliferating regulations. The result and consequence of the current environment is that innovation is being driven out. If we, as manufacturers, lose our ability to innovate, we lose the ability to manufacture.

Particularly troublesome, the National Labor Relations Board (NLRB) has issued a number of decisions and new rules, which alter the landscape of employer-employee relations. In some cases, the Board overturns decades-old precedent of labor law. This is creating friction in employer-employee relations where it need not exist and adds confusion and uncertainty into the workplace.

The National Labor Relations Board has issued two rules in the last year that bring into question whether it is acting within its authority and following the charge given to it by Congress. First, the posting notice rule was issued despite the Board having no notice posting authority authorization. In a further overreach, the Board fabricated an entirely new unfair labor practice and extended the statute of limitations on all unfair labor practices if there is non-compliance on the posting notice. The National Association of Manufacturers filed suit against the Board for this overreach and was later joined by the Coalition for a Democratic Workplace, The National Federation of Independent Business and the National Right to Work.

The second rule employers have serious concerns about, compresses the time from which a petition for representation is filed and the actual election is held. Commonly referred to as “quick-snap” or “ambush” elections, the effect of this new rule is to stifle open dialogue between employers and employees and restrict or outright strip rights employers currently have to ensure fair elections are held. Most importantly, it denies employees a reasonable amount of time to consider all the information they need to make a fully-informed decision about whether they want to join a union. The U.S. Chamber of Commerce and the Coalition for a Democratic Workplace, of which the NAM is a leading member, have filed suit against the NLRB implementing this rule.

Other actions of the Board, including its decision to file a complaint against Boeing Company for building a new facility in South Carolina, are also of great concern to manufacturers. Many have indicated they are considering them when making decisions about hiring new employees and investing in new facilities here in the U.S. Indeed, the NAM surveyed its members and found nearly 70 percent said these actions would make it more difficult to expand and hire new workers.

Actions of the Occupational Safety and Health Administration, (OSHA) are also on the minds of manufacturers. OSHA is not only proposing to make reporting requirements more cumbersome, duplicative and costly, but their methods of enforcement have become more adversarial rather than trying to form cooperative relationships with business owners. This approach only frustrates and confuses employers and lends itself to an environment of skepticism.

To be compliant with the newest regulations and rules takes time away from running the day-to-day operations of a business. Resources are constantly rerouted away from customers, resulting in lower productivity and lower customer satisfaction. As a result, customers will go to other places that will be able to fully devote attention to their customers.

Manufacturers are also confronting an avalanche of additional rules and regulations from the Environmental Protection Agency (EPA) which are further preventing manufacturers from creating jobs and spurring economic growth. Many of the EPA's regulations impact electric utilities thus increasing the costs of energy for manufacturers and consumers. As an energy-intensive sector, even slight energy cost increases can have a big impact on our members' global competitiveness and ability to create jobs. Furthermore, manufacturers are dealing with a host of regulations directly impacting their own facilities. These regulations increase the cost of doing business by requiring manufacturers to install expensive pollution control technology or cut back on production.

I would like to highlight the following EPA regulations as key examples of the agency's overreaching regulatory agenda and its impact on manufacturers:

- Utility MACT and Cross State Air Pollution Rules – Manufacturers are extremely concerned about the EPA's recently-finalized Utility MACT rule, which put strict limits on emissions from power plants. Some plants have already announced they will have to shut down as a result of the new rule, and there also may be grid reliability problems as utilities work to comply with the rule. Even the EPA admits there will be a significant negative impact: according to its own analysis, the regulations could cost on average $10.9 billion a year and could result in the loss of hundreds of thousands of jobs.

  In today's tough economy and competitive global marketplace, not all manufacturers will be able to absorb the increase in electricity costs that result from this expensive regulation. Some plants may shut their doors while others will sharply decrease production or abandon plans to expand the facilities.

- Recently, manufacturers were pleased that a federal court recently stayed implementation of the Cross-State Air Pollution Rule (CSAPR) which would require power plants in 28 states – including states in the South, Midwest and Mid-Atlantic – to reduce emissions that contribute to ozone and fine particle pollution. Had the court not granted the stay, the rule would have gone into effect on January 1, an extraordinarily short period of time between the finalization of the rule and its implementation.

  CSAPR, coupled with the Utility MACT rule, will have significant impacts on the economy. The National Economic Research Associates (NERA) recently modeled the combined economic impacts of both the rules. Costs for the electric sector to comply with the two rules are projected to be a staggering $18 billion per year. The study estimates that nationwide average retail electricity prices rise by 11.5 percent, and heavy manufacturing states such as Ohio can expect prices to rise by approximately 23%. Manufacturers find it extremely difficult to plan for future investments when utility sector regulations threaten to increase the price of the electricity.

- Boiler MACT Regulations – Manufacturers must also deal with a MACT regulation that imposes stricter emission standards on industrial and commercial boilers and process heaters. An industrial boiler - a closed vessel found in a factory, refinery, or large institution that is fired to generate steam – is critical to the manufacturing process. As a result, these regulations will cut across many sectors of the NAM membership, including the forest and paper, chemical, agri-business, steel, and petroleum refining sectors.

The development of these regulations has created significant uncertainty for manufacturers. In December of last year, the EPA issued reconsidered rules, but they still need significant work to be achievable by business sectors across America. In fact, the overall capital cost of the Boiler MACT rule remains over $14 billion for manufacturers, and, as a result, over 200,000 jobs will put at risk. Many manufacturers will have trouble retrofitting their existing boilers to meet the tight three-year compliance time frame.

Serious legal uncertainty also exists because of a January 9th court decision which overturned the EPA's stay of the March 2011 rules. This decision has resulted in confusion about the regulations and will force companies to comply with rules that the EPA is already working to change through the reconsideration process.

Manufacturers believe that legislation is really the only way out of this confusing regulatory morass. The NAM applauds the House for passing The EPA Regulatory Relief Act of 2011 (H.R. 2250), and we strongly urge the Senate to pass the companion bill, S. 1392. These bills would stay the March 2011 rules, extend the compliance timeframe from three to five years and provide the agency with an additional fifteen months to reissue achievable and affordable rules. We believe this legislation will provide manufacturers with the certainty they need to do what they do best – make things and create jobs.

- Regulating Greenhouse Gas Emissions Under the Clean Air Act - If the traditional challenges with air quality regulations were not enough to discourage manufacturers from hiring new employees or investing in new equipment, then the decision to regulate greenhouse gas emissions as a pollutant under the Clean Air Act certainly will. This is unlike any regulation manufacturers have ever experienced. In the past, technology has helped to develop cheaper methods to "scrub" pollutants from our smokestacks. But greenhouse gases cannot be scrubbed from emissions; it can only be reduced through reductions in output or fuel switching.

The easiest way to reduce greenhouse gas emissions from stationary sources is to reduce economic output. That is a recipe for job losses. And although these regulations start with the largest new and modified facilities including energy intensive manufacturers and utilities, the stage has been set to regulate even the smallest manufacturers and possibly existing facilities through the New Source Performance Standards – or NSPS - program. The possibility creates an overhang of uncertainty that casts a dark shadow on the future of manufacturing in this country. We thank the House of Representatives for passing the Energy Tax Prevention Act of 2011 (H.R. 910) to prevent the EPA from regulating greenhouse gas emissions under the Clean Air Act.

Manufacturers face tremendous uncertainty during this period of unprecedented regulatory overreach from the Environmental Protection Agency (EPA). Regulations that raise electricity costs and production costs will prevent the manufacturing sector – the nation's job creators - from leading us through these tough economic times. The Agency must use its discretion to pull-back on these job-killing regulatory proposals.

Government can support manufacturers and play an extremely important role in shaping our competitiveness. For this to happen, I believe there needs to be a real transparency to the regulatory process, as well as an independent economic analysis for the potential impact and unintended consequences for newly proposed regulations. Additionally, Congress should provide a predictable review process for out-of-date, duplicative, redundant, and ineffective regulations.

Education and job training is another area where effective government policies could assist employers, but often miss the mark. We have created an education system that is almost completely separate from the economy at large. Traditionally, it was the job of schools to educate children and assist in creating responsible citizens, and it was the job of companies to train employees.

Today, companies, especially smaller businesses with fewer training and HR resources, cannot afford the luxury of time-intensive training programs for their workers. They need employees who have the knowledge and skills to contribute right away. We need to look at federal workforce training opportunities that often do not address the skills that are in demand by employers. Programs such as the Workforce Investment Act need to train workers to credentials that are in-demand by the private sector.

The only way to address this challenge is to align education, economic development, workforce and business agendas so they work in concert to develop the talent necessary for business success in the global economy. To address this need we should focus workforce funding towards industry-recognized credentials that empower companies to know they are hiring someone with the skills to succeed.

The NAM, through its Manufacturing Institute, is working with community colleges, vocational institutes and other post-secondary institutions across the country by organizing, aligning and translating those credentials into corresponding educational courses that can be integrated into high school and community college degree programs of study. So, an individual can see that if he or she takes the following classes, they will have the skills to earn a nationally-portable, industry-recognized certification and be qualified to work in the following jobs at the following salaries.

As the world's largest manufacturing economy, the United States requires long-term investments in transportation and a comprehensive 21st infrastructure strategy to help ensure our future competitiveness in international markets. Competitors in Asia, Europe, and South America continue to ramp up investments in all types of infrastructure while we struggle to maintain crumbling highways, obsolete bridges, aging public transit, overstressed water and wastewater systems and outdated air traffic control technology.

While our nation faces many fiscal challenges, making key investments in infrastructure should not be delayed. Manufacturers rely on a productive system of roads, rails, ports, inland waterways and airports for receiving raw materials and shipping finished products to customers throughout the United States and the world. The nation loses 4.8 billion hours of extra time a year due to traffic tie-ups and traffic congestion costs Americans $115 billion a year in wasted time and fuel.

The needs of the system are enormous and require innovations that include capital budgeting and planning, prioritizing and funding transportation projects of regional and national significance, a welcoming climate for private infrastructure investment, new federal bonding approaches, environmental permit streamlining and elimination of redundant state and federal regulations that promote greater flexibility to the states.

Thank you for the opportunity to testify before the Committee today and to provide manufacturing's perspective of the concerns with the current environment and processes facing manufacturers today and also to provide you with insight on how we can move forward in the right direction to ensure American manufacturing remains the best in the world.