



*Business Leaders for
Job Growth in America*

TESTIMONY OF
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**“Regulation Nation: The Obama Administration’s
Regulatory Expansion vs. Jobs and Economic Recovery”
Committee on the Judiciary
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Introduction

Chairman Smith, Ranking Member Conyers and distinguished Members of the Committee, thank you for extending to me the opportunity to testify before you today.

My name is Robert L. Luddy and I am the Founder, President and CEO of CaptiveAire Systems, the nation's leading manufacturer of commercial kitchen ventilation systems, based in Raleigh, North Carolina. CaptiveAire's integrated kitchen ventilation packages include hoods, exhaust fans, electrical controls, direct-fired heaters, UL listed grease duct systems, fire suppression systems, grease filters and utility distribution systems. We provide commercial cooking ventilation to independent operators and national restaurant chains, as well as other public and private institutions. I founded CaptiveAire as a one-room facility with just \$1300 in 1976. Today, CaptiveAire maintains a network of over 80 sales offices in the United States and Canada as well as five manufacturing plants in North Carolina, Iowa, Oklahoma, California and Pennsylvania. We now employ 700 employees and are projected to grow to more than 1000 employees by 2016. We are consistently recognized as "best-in-class" in our industry, and we are one of the largest and fastest-growing private companies in North Carolina.

I am also a Job Creators Alliance (JCA) member. JCA was formed by entrepreneurs to give voice to small business – the engine of American job creation. We offer practical solutions for job creation rooted in real-world experience rather than political ideology. We want to promote and shape policies that will encourage investment, stop the migration of jobs overseas, empower small businesses to hire and facilitate the upward mobility of our middle class.

The pace of regulations and policies coming out of Washington is stunting job creation and economic growth. The undue burden being placed on businesses is stifling Entrepreneurial America. My hope and aim today is to illuminate the real issues that regulation can cause for job creators like myself, and how, with the right kind of reforms, we could help grow the economy and usher in another era of American prosperity and job creation.

Job Creators Alliance Position on Regulations

Over the last several decades, the number, scope and burden of Federal regulations have expanded exponentially. Multiple studies have shown that America's regulatory infrastructure costs the U.S. economy anywhere from hundreds of billions of dollars to over \$1 trillion.

Federal regulators issued nearly 25,000 pages of final rules in 2010.¹ To put that into perspective, it would take more than 50 days of reading around the clock to keep up with the 3,573 final rules issued. Churning out this steady flow of regulations will require an estimated 291,676 full-time federal workers this year alone, doubling the number of federal regulators employed in 1980.

On top of that, we have seen hundreds of new significant rules and major regulations issued by this Administration in 2011 and 2012 – an unprecedented onslaught of regulations from Washington.

In 2008, the World Economic Forum ranked the U.S. as the world's most competitive economy. Since that point, for four years in a row, the position of the United States has declined – it is now the world's seventh most competitive economy and falling. Four years later, the United States is ranked 47th (out of 144) in the number of procedures to start a business, 68th in the extent and effect of taxation and 76th in both wastefulness of government spending and burden of government regulation.² This is a scary slide – especially for the entrepreneurs in this country who are relied upon for job creation. If America is to remain competitive, addressing the

¹ Crewes, Clyde Wayne. 10,000 Commandments 2011. Competitive Enterprise Institute, 2010, <http://cei.org/issue-analysis/ten-thousand-commandments-2011>.

² World Economic Forum, The Global Competitiveness Report 2012-2013: <http://reports.weforum.org/global-competitiveness-report-2012-2013/>

regulatory burden the U.S. government places on businesses – especially small businesses, which create two-thirds of all new jobs in this nation – is an urgent priority.

Greater attention must be drawn to the burden that regulation is placing on economic growth and job creation. Policymakers should better weigh the potential benefits of new regulatory initiatives against their costs.

Over the years, Presidents, Congress and this Committee have issued executive orders, enacted laws and passed legislation in an attempt to reduce the burden of regulations on businesses. These include the Regulatory Flexibility Improvements Act of 2011, the REINS Act, the Red Tape Reduction Act and the Small Business Jobs Act, just to name a few. While these efforts led by the U.S. House of Representatives have yielded some progress, the regulatory burden for small businesses continues to grow.³ The speed and complexity with which new rules are handed down have had a chilling effect in the private sector, as businesses are unable to adequately plan for the future; they simply do not know what these regulations will cost them in time, money and energy. This Committee demonstrated leadership when it called for a moratorium on substantial

³ SBA Office of Advocacy, "2010 Regulatory Flexibility Act Report," February 2011.

regulations until the economy had recovered to an unemployment rate of 6.0% or below. This was, and is still, a good idea.

As this Committee has recognized, we need better cost accounting when it comes to passing and enacting new regulations. Before laws are passed, greater emphasis should be placed on analyzing the potential costs of regulatory initiatives. The Congressional Budget Office estimates the budget impact of all legislation. A similar process for scoring the economic costs of regulations should be established as well. Better disclosure will hold lawmakers responsible for the burdens new regulations place on job creators.

As new rules are added, old regulations are often left on the books and forgotten. Various provisions intended to reduce regulatory burdens often overlap, wasting valuable resources on unnecessary paperwork and creating confusion. Congress should place a sunset date on most regulations, after which the agency must justify the continuation of the regulation and re-open the rule for comment. This Committee, again, has led on these efforts, but more needs to be done.

Underlying this entire discussion, and the reason for JCA's existence, is the reality that regulations have a disproportionately adverse impact on small businesses than large ones. As this Committee has accurately pointed

out, small businesses pay 36% more regulatory costs per employee than large businesses and Federal regulations that impact small businesses have risen 14% since 2009. Large companies with big accounting, legal and compliance departments have the resources to deal with new regulations – small businesses do not. This gives a significant advantage to large, mature firms, who are creating few, if any, jobs against small, entrepreneurial firms that generate the vast majority of new jobs. This is why small business owners routinely name regulations, and the uncertainty surrounding them, as the biggest problem facing them today. A highly-regulated state makes it difficult to innovate, to invest and to grow a business.

Impact of Regulations on CaptiveAire Systems, Inc.

Current regulations for the Commercial Kitchen Ventilation industry are vast and cover all aspects of the product. ASHRAE (American Society of Heating, Refrigerating and Air-conditioning Engineers) develops standards to define acceptable performance. Five widely applied to our industry are as follows:

Standard 154 – Ventilation for Commercial Cooking Operations

Standard 90 – Energy Standard for Buildings except Low-Rise Residential

Standard 189 – Standard for the Design of High Performance Green Buildings

Standard 62.1 – Ventilation and Acceptable Indoor Air Quality

Standard 62.2 – Ventilation and Acceptable Indoor Air Quality in Low-Rise

Residential Buildings

Mechanical Codes and Commercial Kitchen Ventilation Standards that apply to our industry include the following listed below. State and local jurisdictions can adopt their own mechanical codes, which can add another layer of regulations.

International Mechanical Code (IMC)

Uniform Mechanical Code (UMC)

National Fire Protection Association Bulletin 96 (NFPA96-2008) - Standard for Ventilation Control and Fire Protection of Commercial Cooking

Operations

Life Safety Code

International Fuel and Gas Code (IFGC)

International Energy Conservation Code (IECC)

Each product we sell is listed to and evaluated according to the applicable UL Standard. Testing is done through a certified testing agency and visits to our manufacturing sites are required semi-annually or annually to evaluate the manufacturing process to ensure conformity. See examples below of applicable safety standards for a portion of our products:

Underwriters Laboratories, UL Standard 710 – Exhaust Hoods for Commercial Cooking Equipment

Underwriters Laboratories, UL Standard 1046 – Grease Filters for Exhaust Ducts

Underwriters Laboratories, UL Standard 705 – Power Ventilators

Underwriters Laboratories, UL Standard 762 – Power Roof Ventilators for Restaurant Exhaust Appliances

Performance Standards for some products are also documented via American Society of Testing and Materials (ASTM). The products are then tested to the applicable performance standard. See examples below:

ASTM-F2519-05 (2011) – Standard Test Methods for Grease Particle Capture Efficiency of Commercial Kitchen Filters and Extractors

ASTM-F1704-09 – Standard Test Methods for Capture and Containment Performance of Commercial Kitchen Exhaust Ventilation Systems

ASTM-F2474-09 – Standard Test Method for Heat Gain to Space Performance of Commercial Kitchen Ventilation/Appliance Systems

Our fan line must also be evaluated to standards and testing developed by Air Movement and Control Association International, Inc. (AMCA). See some examples below:

AMCA 205 – Energy Efficiency Classification

*AMCA 211 – Certified Ratings Program - Product Rating Manual for
Fan Air Performance*

*AMCA 311 – Certified Ratings Program - Product Rating Manual for Fan
Sound Performance*

In 2010, the Energy Independence and Security Act (EISA) mandated a standard for Premium Efficiency Motors. EISA and its related regulations provide specific definitions for "electric motors" and apply to two subtypes of motors. Each subtype is subject to different energy efficiency standards, but affect 1-500 horsepower range of motors. The mandated move to Premium Efficiency motors included a 20-25% increase in price for the manufacturer, which was in turn passed on to the consumer.

Now, the Department of Energy is looking to regulate commercial and industrial fans and blowers. First, it must be said that the fans comprise a small fraction of the energy consumed in commercial and industrial buildings. The fan construction is a small part of system performance. The size, installation, operation and how the fan is controlled all play a large role in fan efficiency. Controlling these influences would have better efficiency gains than the marginal impact of increasing the fan alone. If a ventilation manufacturer spends development time on meeting the new fan regulation, then less time will be spent on new technologies and finding opportunities to save energy.

Private Sector innovation for Kitchen Ventilation Industry, in regards to energy savings, has increased. Three examples of this innovation can be seen in Demand Ventilation, the use of Electronically Commutated (ECM) Motors and the increase of solid state controls.

Demand ventilation is an older, but quickly growing concept, where variable frequency drives (VFD) are used to decrease or increase fan speed based on actual cooking conditions. The use of variable speed fans to reduce off-peak energy loads has increased within our company. By reducing fan speeds by 20%, a savings of up to 48% of fan energy can be saved. Our consumers understand this technology and our sales of demand ventilation have increased by 20% each year for the last 5 years (2007-2012).

The use of ECM (Electronically Commutated) motors is also increasing in the industry and being specified more frequently. Standard fraction horsepower motors are 65-75% efficient, whereas ECM motors are 80% plus efficient.

Solid state controls focus on overall building monitoring; individual pieces of equipment can be monitored and controlled, as well as points like temperature and humidity are recorded. Data is reported via a browser capable device such as an iPhone or personal computer. By viewing the

overall building and analyzing data, this will allow greater reduction in energy consumption.

Given that the cost of fan energy is relatively small and given that manufacturers are using known technologies to gain efficiency – is this really an area that the Federal Government should regulate? We are on the cusp of major innovations and increased regulations will stunt this progress. This is just one example of how, too often, the Federal Government inserts itself into areas where the industry is already busy innovating. Innovation means better execution, satisfied customers and ultimately a more robust economy.

Conclusion

The best way to empower entrepreneurs and encourage small business owners is to establish a moratorium on new regulation. Ultimately, it is my belief that the American Dream – a Dream that I have been fortunate to live – is predicated on the free enterprise system.

Codes and regulations in the Commercial Kitchen Ventilation Industry have impeded energy saving technologies. Many manufacturers compete on the basis of performance, energy savings and lower cost. Some areas of the country, such as the City of Chicago, refuse to modernize by reducing exhaust flow for commercial hoods; a concept of listed hoods and lower airflows is now accepted by most code authorities.

The creative genius of free market entrepreneurs and their hard working employees has solved enormous challenges over the past 150 years and is the greatest single force for innovation, which produces safe, energy efficient technologies. This process bolsters America's competitiveness in the world, increases exports, our GDP and creates the jobs of the future. Thank you, and I look forward to your questions.

Appendix Enclosed