

Comment 55057

See attached file(s)

Greetings,

I am a small business owner trying to compete with big businesses and government agencies in a dynamic economic landscape. We survive and, in cases, thrive because we have flexibility in our work hours, compensation programs and recognize the use of ingenuity, flexibility and leverage technology all in ways NEVER even dreamed of when the FLSA was passed.

This rule will DESTROY many small businesses, rob Americans and Immigrants of basic economic freedoms and destroy our future.

In 2016, this rule making was stopped by combinations of court actions and pending legislation. Please see the attached letter I wrote to our delegation in 2016. Every point made in that letter still stands 3 years later. What part of "no thank you" does the Agency not hear.

The FLSA and all the rule making attempting to micro manage the American Workplace is antiquated and obsolete. The economy has changed drastically, the american worker and families have changed drastically, technology has changed drastically. Yet for some reason these antiquated rules march on - robbing ingenuity, forcing a one size fits all work place, and destroying the future... Please - enough with the rulemaking. No one is being abused in the work place without this rule. Matter of fact - many flex hour workers and unconventional team members detest this rule and wish to have MORE freedom in the economy than be forced into a one size fits all - big business, big government, big organize labor system. We want economic flexibility and freedom.

While rule makers are now proposing a lower threshold minimum salary (admittedly a step in the right direction) - this is still bad rule making and the whole rule should be withdrawn.

Small business does not get paid to write rules or write comments on rules, we have to muster what we can to get our voice heard and stand for principals of fairness. Yet we are constantly being attacked with more rules, more taxes, more costs by government agencies and others with more power until we succumb and whine for crumbs. It is time to stop treading on small business.

Please enter into the record these comments AND the attached letter to elected officials.

Thank you.

DJF

**David J. and Christine H. Frohnen
Henderson, Nevada**

May 1, 2016

Senator Harry Reid
Senator Dean Heller
Congressman Joe Heck
Congressman Cresent Hardy
Congresswoman Dina Titus
Congressman Mark Amodei

Via Email

Subject: Request for Congressional Action – Department of Labor Overtime Rules – Destruction of the middleclass, small and family businesses.

Greetings. I hope this letter finds you and your families safe and happy.

I am writing today to draw attention to the pending disaster and attack on the middle class, small and family main street businesses that will occur with implementation of proposed Department of Labor pay, bookkeeping, and overtime rules on track to take effect this summer. *These rules, if implemented, enforced and complied with, will destroy opportunities for young professionals, reduce pay and advancement of middleclass workers, bankrupt small businesses, and steal away American's rights to basic economic freedom and opportunity.*

Also, many companies similar to ours that have teamwork and progressive work cultures and rely on modestly paid but happy salaried professionals will forever have a positive work culture torn out by the roots by these DOL regulations – many companies will fold.

S. 2707 and H.R. 4773 have been introduced to counteract some of the disastrous ramifications of the pending DOL regulations. **We urge you to expedite the passage of this legislation and to consider additional protections to workers and the middleclass in America.**

At Issue:

The basic theme of the proposed (near final) regulations from DOL is to increase the threshold of pay for salaried workers to be exempt from overtime rules to \$50,440 per year. This is a 110% increase. In practice, every worker making less than \$50,440 per year will be required to punch a time clock, account for work outside the physical business, and be paid overtime wages for all hours worked over 40 per week.

The “stated” rationale for such a drastic change and **Federal** directive is to protect workers from exploitation from Corporate America. The theme of the overworked, underpaid fast food manager is specifically used to dramatize the proposed rulemaking. While such a goal is noble, the underlying assumptions are false, the solution is worse than the problem, and the unintended consequences (or some believe “intended consequences”) will be to eliminate vast sectors of the middleclass economy, destroy opportunities for young professionals, and revoke basic economic freedoms and opportunities from Americans. **Please do not let this happen on YOUR term.**

Please consider some realities to the situation:

- The proposed threshold is a 110% increase.
- The proposed threshold for one worker is equal to the total median household income in America.
- The proposed rules do not account for urban versus rural economic differences.
- The proposed rules do not account for any regional or industry economic differences.
- The vast majority of businesses impacted by the proposed rule ARE NOT CORPORATE AMERICA. They are small businesses barely surviving.
- The vast majority of businesses impacted by the proposed rule cannot afford the cost of extra record keeping, reporting or overtime costs.
- The vast majority of businesses impacted by the proposed rule faces major competition from out of state, out of country, or large conglomerates and can not compete on equal footing.
- The vast majority of businesses impacted by the proposed rules will face difficult decisions impacting workers negatively, including reduced pay rates, reduced hours, reduced bonus pools, reduced benefits, reduced training, more outsourcing and other cost controls.
- Businesses already competing with governmental agencies on unfair terms will see more disadvantages to competing against government in-sourcing.
- Government agencies will have the luxury of little impact to their business models due to high pay scales and little pressure to limit payroll costs.
- The vast majority of IMPACTED WORKERS will see less opportunity for advancement, less chance for higher earnings, fewer career opportunities, fewer opportunities for learning, less training/skill development, and more stagnation of overall earnings.

Notwithstanding all of the above as reason to overturn the DOL regulations, *I have one more critical reason to stop this insanity of centralized federal control of every aspect of our lives. It is my personal struggle to feed my family, operate a small business, provide a job and opportunity for 30 other Americans, and create a work culture of teamwork, pride, exceptionalism, and service to our clients, our team members and our communities.* Yes, the proposed DOL rules will kill all that and more....

This NEW FEDERAL DIRECTIVE WILL FOREVER CHANGE THE CULTURE OF WORK AND ECONOMIC FREEDOM IN FAMILY, SMALL AND ENTREPRENEURIAL BUSINESSES.

I do not consider my own small business unique; as I know a lot of my contemporaries face similar challenges, however, allow me to share the situation for illustration.

After 25 years of working and advancing in large and small companies in America, I found myself with a comfortable middleclass income (salary) with a great family and rewarding lifestyle in Nevada. Yes, I applied myself many hours past 40 per week (without OT pay) and was thankful for some of the opportunities to learn, grow and advance.

With the housing/financial crisis of 2008 and ensuing long recession, I was without work. I poured our lifesavings into a small business under the belief it was an honorable way to

make a middleclass lifestyle and provided opportunity for growth. It was an opportunity to provide service to our customers, provide for my family and workers and a chance to develop our own unique work culture.

Somewhat as expected, but mostly to my chagrin, I found the cards stacked against middleclass businesses and hardworking independents.

- Regulatory and tax compliance is nearly a full time job even for the smallest of businesses – a huge barrier to entry and an affront to economic freedom.
- Access to markets is often limited and institutional and government favoritism rampant.
- Competition and growth from governmental agencies in-sourcing and operating in historic private sector industries is rampant, growing, unfair and ruthless.
- Respect by government agencies for our professional services is slighted and our services are forever being commoditized – all at the same time our Professional Licensing requirements and fees are being increased.
- Competition for government contracts is inefficient, ineffective and often suspect. Recent case in point; a water district purchasing specialist (HS educated- paid \$98,000 per year) demanding another 10% off our prices or they will go “out-of-state”. This is to be squeezed out of our staff of professional scientists making \$40,000 per year with BS degrees and often advanced degrees. Interesting, \$98,000 per year seemed low to this government worker as she was terminated for purchasing fraud to the tune of \$4.5 million.
- Ever increasing work place rules, labor rules and yes – healthcare rules.

Not to worry, small businesses are smart, creative, hardworking and industrious. We would implement a sustainable business culture and work plan. We knew that our knowledge, skills, and unique work culture would allow us to develop a long term business plan that would underscore and reward us for our core values of:

- **Service** – to our clients, team members and community
- **Integrity** – full compliance with all laws, honest business dealings and keeping all of our promises.
- **Growth** - life-long learning, career advancement, technical expertise.

We operate a small business with a varied and demanding client base. Our team members typically include scientists and technicians performing field and laboratory work mostly in the environmental control and construction inspection industries. We are in a low margin, low paying industry. We offer opportunities to new graduates, paraprofessionals, and experienced workers that are either not interested or not able to obtain more lucrative employment in the government or research industries. We are fortunate to have many long-term employees that enjoy our work culture and the challenge of our industry. It is a constant struggle to keep work coming in, paying bills, and maintaining cash flow to meet payroll and reinvest in the business.

Work Cultures such as ours are threatened at the core by these DOL rules:

Our keys to survival include – flexibility in work assignments, multi-tasking, chances to learn and develop, flexibility of work hours and a culture of service and getting the job done for our clients. Developing and implementing unique capabilities and high levels for customer service are a must to survive. We comply with all regulations but we avoid non-value added work and bureaucracy. We do quality work and keep clients happy. We do not punch time clocks, we do not employ timekeepers.

We offer great benefits compared to our peers, we offer good base pay for our industry and we offer a profit sharing plan based on performance and success. We offer training, encouragement to learn, and chances for advancement. **Like many of our peers and most small businesses - many of our salaried workers are professionals or managers falling slightly below the proposed DOL threshold of \$50,440.** We would be forced to install time clocks, hire timekeepers, reduce benefits, reduce base pay, limit training and change our whole progressive work culture. We often take young workers; train them - offer opportunities for learning and advancement. We want to develop responsible workers and citizens that can be leaders at work and at home. Our values, culture and sustainability model relies on an atmosphere of:

- A WE mentality – not an US versus THEM mentality.
- TEAMWORK – not employer versus employee or manager versus worker.
- Lifelong learning and learning on the job.
- Personal responsibility and personal accountability.
- Service to Client mentality and doing what it takes to satisfy the client.
- An ownership mentality – even “Extreme Ownership” in carrying out our daily missions.
- Working as a team and accomplishing great things – not “Working for the MAN”.
- Team member, manager and company goals are in alignment for mutual success.
- Shared sacrifice and shared rewards - not government mandated thresholds.
- Mutual respect and treatment regardless of employment class.
- Reward for accomplishment – not minimal entitlements.

The proposed DOL regulations are a personal affront to EVERYTHING we stand for. The very survival of small businesses like ours is at stake.

Please take action to support S. 2707 or H.R. 4773 - plus please take more action to save the middleclass, save the culture and sustainability of the entrepreneurial, family and small business.

Please do not let YOUR term be the last for economic freedom and opportunity.

Sincerely,

David J. Frohnen

David J. Frohnen

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cc: Rep. Tim Walberg
Sen. Tim Scott