



Statement of the American Farm Bureau Federation

**TO THE
HOUSE COMMITTEE ON SMALL BUSINESS
SUBCOMMITTEE ON AGRICULTURE, ENERGY AND TRADE
REGARDING: THE FUTURE OF THE FAMILY FARM: THE EFFECT OF
PROPOSED DOL REGULATIONS ON SMALL BUSINESS PRODUCERS**

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Presented by Chris Chinn

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Testifying on Behalf of the American Farm Bureau Federation

Mr. Chairman and Members of the Subcommittee:

Thank you for the opportunity to testify this morning. My name is Chris Chinn. My husband, Kevin, and I are fifth generation farmers. We are blessed to be the parents of two wonderful children, Rachele, 14, and Connor, 10. Both of our children do chores around the farm and they are compensated for their work; they also work on their grandparents' farm. The income they earn helps to pay for their 4-H livestock and the feed expenses associated with their livestock. Both of them have shown hogs and heifers at the county fair since they were 9 years old. I am grateful for the chance to provide the committee with a farmer's first-hand reaction to regulations proposed by the U.S. Department of Labor (DOL) – how these regulations could affect farm families, the ability of youth to work in agriculture, and the desire and goal of parents like Kevin and me to pass on to our children the traditions and values we hold.

The DOL proposal was only unveiled last September, yet, it has created a firestorm among farmers and ranchers around the country, and for good reason. Despite assertions by the department that it would not affect farm families like mine or would not change how DOL administers the law, there is virtual unanimity within the agricultural community that these regulations would have an enormous impact on farm families.

To buttress that claim, let me underscore that today I am testifying not only on my own behalf but on behalf of the American Farm Bureau Federation (Farm Bureau), the nation's largest general farm organization with more than 6 million member families. Farm Bureau represents farmers in virtually every commodity, in every state. Farm Bureau has registered strong opposition to DOL's proposed regulations. On Dec. 1, Farm Bureau led a coalition of more than 70 agricultural organizations in filing comments to the department. Those comments outline in detail the concerns raised by the DOL proposal. I have included a copy of these comments as an attachment to my testimony and would like to request that they be included in the hearing record.

For the record, let me share with the subcommittee my background and experience and that of my family.

My husband Kevin and I are co-owners of Chinn Hog Farm, a 160-acre farm that includes a 60 head cow-calf operation as well as hogs. We rent 300 acres of row crop land. From time to time, my husband will help care for his parents' cattle, and we are part owners with my in-laws of the family feed mill, which is a limited liability corporation (LLC). My parents-in-law own a hog farm, which is a Subchapter S corporation.

I did not grow up on a farm – at least not literally. But as a child, I was a frequent visitor at my grandparents' farm, on weekends throughout the year and through much of the summer. While there, I pitched in like everyone else. I drove tractors in the hay field starting at the age of 12. I helped milk cows, gathered eggs from the chickens, cut weeds out of the soybean fields, helped build fencing, fed the hogs and cattle, and helped buck hay bales – and when I was in the hay loft, I can pretty much guarantee it was more than 6 feet off the ground. If the proposal you are examining today were in effect then, my upbringing and childhood would have been far different and much less fulfilling. I think I can honestly say I would be a different person. I wouldn't give up what I learned for anything in the world. And my husband and I very much want to pass on that kind of upbringing to our own children.

When I look back on my childhood, it distresses me to have DOL – or anyone else – think that my parents and grandparents did not have my best interests at heart. For DOL to suggest – as they do in their proposed regulations – that my grandparents were violating the law almost takes my breath away. But based on the proposal they intend to make final, they are saying that our family farm was violating federal law. I could not disagree more – and I’ll bet most members of Congress feel the same way. If I could, I would like to walk you through the DOL proposal to show you what an enormous impact this rule would have had on my childhood and how it might affect my own children.

Nearly every one of the tasks I just mentioned would be proscribed by DOL. Just to mention the most obvious:

1. Driving tractors is forbidden by proposed Hazardous Occupation Order (HO) #1.
2. Milking cows would most likely be prohibited by proposed HO #4.
3. Cutting weeds would be proscribed by proposed HO #3.
4. Building or repairing fencing would be prevented by proposed HO #6.

Today, I am passing on to my own children the lessons I learned as a child. I believe it is important for them to have the right work ethic. To learn what it is to earn your keep. To recognize that when you put your mind to do something, you can accomplish a lot. That effort and reward are related. And above all – to be careful when the job you are doing entails risks.

These are important life lessons. I can’t think of a better place to learn them than on a farm. Let me give you an idea of some of the typical kinds of work our children do:

- Conner, my 10-year-old, will collect eggs from hens owned by his grandparents. Grandma pays him for this chore four days a week. The other three days are just normal chore days for him. He also helps clean out the chicken house.
- Rachelle helps her grandma breed sows inside the hog barns, for which she is compensated. She uses the power washer in the barns to wash alley ways. She also feeds the sows. She fills vaccination syringes for her Grandma. She isn’t comfortable giving vaccinations yet so we don’t allow her to do that. When she is ready, we will train her to do this the correct way.
- Rachelle and Conner both mow for their grandparents in the summer time.
- Rachelle paints around the hog farm in the summertime and is paid for it.
- Rachelle and Conner both help move sows around in the hog farms.
- Both kids help in the summer on weaning days moving weaned pigs onto a trailer.

These are just a few examples of the kinds of work we have our children do. In addition to these tasks, both children help Kevin and me on our own farm and at the feed mill.

It’s pretty clear what DOL doesn’t want youth to do. They don’t want them working with livestock. Working at heights greater than 6 feet. Working on tractors. Working with power-driven equipment. Working on occupations related to construction. So the key question for us then becomes: Are we covered by the parental exemption or not?

My children work on their grandparents' farm but they do not live with them. My grandparents' farm is a Subchapter S corporation and the feed mill is a limited liability corporation (LLC). As I and thousands of farmers around the country read the proposed DOL regulations, my children would not be allowed to work as they do now. And I can assure members of the subcommittee, my experience is typical of farm families across the country.

Our concern is that, in a number of places in its regulations, DOL is clearly seeking to limit the parental exemption. The proposed regulation states:

“Only the sole owner or operator of a farm is in a position to regulate the duties of his or her child and provide guidance. Where the ownership or operation of the farm is vested in persons other than, or in addition to, the parent or person standing in place of the parent, such as a business entity, corporation, or partnership (unless wholly owned by the parent(s)), the child worker is responsible to persons other than his or her parent, and his or her duties would be regulated by the corporation or partnership.”

[Proposed 29 CFR 570.123 (1), *Federal Register* page 54880]

Later in the proposed regulation, DOL states that a relative, including a grandparent or aunt or uncle, might be covered by the exemption but the regulation makes it contingent on the youth actually residing with the relative for more than one month. DOL states explicitly: “Generally, a period of less than one month would not be sufficient for the parental exemption to apply in such situations.” [Proposed 29 CFR 570.123(2), *Federal Register* page 54880]. Elsewhere in the regulation, DOL states: “It is important to note that a child who is exempt from the Ag H.O.s when employed on his or her parent's farm would generally lose that exempt status (not be exempt) when employed on a farm owned or operated by a neighbor or non-parental relative.” [Federal Register page 54841]

What DOL says in the regulation seems pretty evident – regulators want to narrow the parental exemption as much as they can. But at the same time, they claim that they are not changing anything. But I know from my own experience growing up and from that of my friends, neighbors and fellow farmers, what DOL is proposing represents a wholesale change in how they interpret the law.

It is also concerning that DOL and others in the government claim that farmers are merely misinterpreting the regulation and that it is all a matter of confusion. For instance, in December, on the secretary's blog at the U.S. Department of Agriculture (USDA), the Secretary of USDA states that:

“There is nothing in the proposed rule that affects the ability of parents and families to assign chores and tasks to their children. Further, the proposed rule respects the various ways that farms are structured in rural America, including partnerships and LLC's.”

This seems to directly contradict the DOL proposal itself, wherein DOL says that the parental exemption does not apply to “an institution or facility, such as a corporation, business, partnership” or other establishments. The rule also appears to be contradicted by DOL’s own Field Operations Handbook, which states that “‘Owned by’ the parent or the person standing in place of the parent includes part ownership as a partner in a partnership or as an officer of a corporation which owns the farm if the ownership interest in the partnership or corporation is substantial.” At a minimum, if there is confusion over what DOL is trying to do, that confusion has been caused by DOL. But if you look at the proposed regulation in its entirety, it is pretty clear why farmers feel DOL will take the strictest reading and prevent youth from working on farms wherever they can.

For instance, DOL has the authority to designate occupations that are “particularly hazardous.” But it appears they have gone well beyond that authority in the proposal. In HO #2, for instance, they have outlawed youths under 16 from operating any equipment that is “operated by any power source other than human hand or foot power.” That would appear to include battery powered tools like screwdrivers or flashlights. It also appears to mean that a garden hose, which is powered by water pressure, would be off limits as well. It is simply nonsense for DOL to think Congress gave them the authority to outlaw 15 year olds from watering a lawn.

DOL and others may want to tell you that that they are just trying to protect children – as if we are not! Please don’t be misled by such claims, and I’ll start with my own farm. As my husband and I teach our children about working on the farm, we supervise them and their activities. They are taught what to do and what not to do. We also teach them that there are certain things they absolutely may not do:

- They are never allowed to be near bulls.
- They are never allowed around grain augers.
- They are never allowed to be around a tractor that is mowing hay unless they are inside the cab of the tractor in a buddy seat with a seat belt on.
- They are not allowed to go near the feed mill mixer, which is in the basement of the mill.
- They are not allowed to mow grass on hills or near buildings.
- They are not allowed to power wash farrowing rooms yet, only alley ways where you only wash the ground.

I also might mention to the subcommittee out that my 14-year-old daughter, Rachelle, has visited the emergency room three times this year. Not one of those visits was due to working on the farm. They were all due to school sports injuries. My children have never been injured on our farm working, and they have never gone to the emergency room from working on our farm. Rachelle has been hurt more at school than on our farm.

Farmers and ranchers have been greatly encouraged by efforts in the House of Representatives and in the Senate to prevent DOL from proceeding with this rulemaking. Congressman Denny Rehberg sent a letter to DOL in December signed by a bipartisan group of more than 150 members of the House. Many of you signed that letter, and I want to thank you for your help. In the Senate, Senator Jerry Moran also sent a letter with more than two dozen senators’ signatures.

It is clear to all of us in the agricultural community that merely “tweaking” the rule will not fix something that we believe is fundamentally flawed. DOL clearly does not understand the farming community, does not understand how farms are organized, how farm families help one another, does not appreciate or grasp what it is like to live in rural America, nor does the department seem to have much respect for the ability of farmers and ranchers to look out for the well-being of their children.

In my view, and that of nearly the entire agriculture community, the DOL proposal is far too broad and would have a negative impact on farm families like my own. I hope the members of the subcommittee will work with us in getting the rule withdrawn so that we can preserve our traditions and our way of life.

Thank you again for this opportunity to testify. I will be pleased to answer questions.