



**Opening Statement of
Chairman Crescent Hardy
House Committee on Small Business
Subcommittee on Oversight, Investigations, and Regulations
Hearing: “The Consequences of DOL’s One-Size-Fits-All Overtime Rule for Small
Businesses and their Employees”
October 8, 2015**

Good morning. I call this hearing to order. I would like to start by thanking the witnesses, especially the small business owners who have traveled here from different parts of the country, for being here today.

The Fair Labor Standards Act, or FLSA, is the primary federal law governing employee wages, hours worked, and overtime pay. When the FLSA was enacted in 1938, an exemption from the Act’s overtime provisions was provided for certain executive, administrative, and professional employees. This is commonly referred to as the “white collar” exemption.

In March of last year, President Obama directed the Department of Labor to “streamline” and “simplify” the regulations governing the white collar exemption. The DOL issued those regulations on July 6th of this year. Judging by the reaction from small business owners across the country, this proposed regulation doesn’t streamline or simplify. Instead, it increases costs for small businesses and reduces flexibility for American workers.

As we’ve seen too often, the DOL has done a poor job of analyzing the impact of this rule on small businesses as required by the Regulatory Flexibility Act. It vastly underestimates the number of affected small businesses and what the real ramifications are for those companies and their employees.

The Administration’s own Chief Counsel for Advocacy at the Small Business Administration stated that the analysis relies on numerous assumptions and lacks detailed industry information — even though it is available. In addition, small business owners have pointed out several other problems. For example, the proposed rule would raise the salary level under which employees qualify for overtime pay from \$23,660 a year to \$50,440 a year in 2016. That is a 102 percent increase that will have a heck of an impact on a small business owner’s bottom line.

Another problem that I have heard from my constituents back home in Nevada is that the rule adopts a one-size-fits-all standard. It simply does not recognize the geographic diversity of the American economy and will particularly hurt rural small businesses that are still recovering from the Great Recession. Simply put, a \$50,440 per year salary threshold might be fine for an employer in San Francisco or Mid-Town Manhattan, not so much in Ely, Nevada.

The impact of this regulation, and that of the countless other regulations we have examined here at the Small Business Committee, shows that this Administration is tone deaf when it comes to actually helping small businesses. If the DOL finalizes this rule as written, it will make it harder for small businesses to grow and create jobs.

I am looking forward to hearing from our small business witnesses who will tell us how this regulation will affect their businesses and their employees. I now yield to our Ranking Member, Ms. Adams, for her opening statement.

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