

December 1, 2023

The Honorable Kevin Kiley
Chairman
Committee on Education and the Workforce
Subcommittee on Workforce Protections
U.S. House of Representatives
Washington, DC 20515

The Honorable Alma Adams
Ranking Member
Committee on Education and Workforce
Subcommittee on Workforce Protections
U.S. House of Representatives
Washington, DC 20515

Re: Comments related to “Bad for Business: DOL’s Proposed Overtime Rule” on behalf of the Customized Logistics and Delivery Association (CLDA)

Dear Chairman Kiley,

These comments are submitted on behalf of the hundreds of companies represented by the Customized Logistics and Delivery Association (CLDA), along with their exempt employees and hundreds of thousands of Independent Contractor (IC) drivers.

The CLDA is a non-profit trade association that advances the interests of the customized logistics and delivery industry through advocacy, networking and education. The CLDA’s membership is comprised of logistics companies providing first, middle and last mile delivery services to the home, hospital, office, airport, docks, clinics, job site and everywhere in between. Although family businesses dominate this industry, we also consist of national organizations of significant size. These logistics companies often serve as one of the most critical functions of the supply chain ecosystem. Any impact to the way they operate their businesses threatens to disrupt the delicate balance in the supply chain.

We ask you to thoughtfully consider our comments in regards to the Subcommittee’s hearing entitled, “Bad for Business: DOL’s Proposed Overtime Rule,” and allow America’s small entrepreneurs to continue running their own businesses and fulfilling their version of the American dream. The proposal increases the minimum salary level threshold to \$55,068 annually for a full-year worker and automatically updates the threshold every three years. Many businesses are not well-positioned to absorb new labor costs associated with changes to the overtime pay regulations, and such changes would only exacerbate the difficulties businesses are currently facing.

The CLDA supports the Fair Labor Standards Act’s (FLSA) goal to address “the maintenance of the minimum standard of living necessary for health, efficiency, and general wellbeing of workers.” However, the Association believes in part that the new rule proposed by the Biden Administration has been issued under the supposed authority of the acting Secretary of Labor, Julie Su, who the United States Senate has declined to confirm for nine months. Every action of the DOL is under a legal cloud that is interfering with the committee’s most important responsibilities of protecting America’s workers.

In addition, the DOL's Proposed Overtime Rule is flawed in multiple ways with impacts to both employers and employees. As employers, the logistics industry is already facing significant pressures with proposed rules, such as the Employee or Independent Contractor (IC) Classification Proposed Rule, which threatens the very existence of many final mile logistics companies by eliminating the ability to utilize the IC driver business model. Many small businesses would simply go out of business if this rule goes into effect.

Furthermore, the proposed Overtime Rule would result in higher costs, squeezing already incredibly tight margins, and have a real impact on opportunities to grow. Businesses can only absorb so much of the increased labor cost before it is inevitably passed on to the customer, negating the economic benefits the Department is attempting to create. We are very concerned the proposed rule will negatively impact the logistics industry, especially at a time when the economy is vulnerable and we continue to deal with pervasive inflation and the ongoing threat of a recession.

For employees, this current proposal will likely result in significantly more employees being reclassified. These employees would lose the security of a salary not subject to changes in workflow patterns bringing further disruption to workplaces still coping with the effects of the recent pandemic and broader economic changes. Reclassified employees would lose the greater benefits typically reserved for exempt employees and result in reduced opportunities for their professional development, diminished workplace autonomy, and less flexibility.

Nearly 85% of CLDA members are considered small businesses and they do not have the bandwidth or the resources to contend with such sweeping changes. In addition, the industry continues to suffer from labor and driver shortages. With multiple proposed rule changes on the horizon, many small businesses feel like they are being attacked and that the Administration is continuing to create barriers to their success and growth opportunities. These businesses need the Department's support to operate freely and with the flexibility needed to contribute to the overall economy. This proposal is flawed and will negatively impact the logistics industry. For all the reasons above, CLDA urges the Department to withdraw the proposal.

Respectfully,



Jason Burns
President
Customized Logistics and Delivery Association