

TESTIMONY BEFORE THE UNITED STATES CONGRESS  
ON BEHALF OF THE  
**NATIONAL FEDERATION OF INDEPENDENT BUSINESS**

**NFIB**  
The Voice of Small Business.®

Testimony of Ralph Beebe,  
House Committee on Education and the Workforce  
Subcommittee on Workforce Protections  
December 9, 2015

*How the Administration's Regulatory Onslaught is Affecting Workers and Job Creators*

Good morning, Chairman Walberg, Ranking Member Wilson, and members of the Committee. I am pleased to be here on behalf of the National Federation of Independent Business (NFIB). I am one of the owners of Highland Engineering, Inc. and have been a member of NFIB since 1993. I also currently serve on the NFIB-Michigan Leadership Council. Thank you for holding today's hearing, "*How the Administration's Regulatory Onslaught is Affecting Workers and Job Creators.*" The current regulatory framework negatively impacts small and closely-held businesses in several important ways, so I appreciate the invitation to be here today to discuss these important issues from the perspective of a small business owner.

The NFIB is the nation's leading small business advocacy organization. All of NFIB's members are independently owned, which is to say that none are publicly traded corporations. As part of representing small business owners, NFIB frequently conducts surveys of both the NFIB membership and the small business population as a whole, and government regulation consistently ranks as one of their greatest concerns. A few consistent concerns are raised regardless of the trade or industry in which the small business is engaged. In fact, since January 2009, "government requirements and red tape" has been a top-three problem for small business owners, per NFIB's monthly *Small Business Economic Trends* survey.<sup>1</sup> Further, according to a 2014 study commissioned by the National Association of Manufacturers, federal regulations cost businesses with 50 employees or fewer about \$12,000 per employee per year. That's 30 percent more than the largest businesses.<sup>2</sup>

In the administration's fall 2015 regulatory agenda,<sup>3</sup> released on November 18, there are 3,297 federal regulations in the pipeline waiting to be proposed, finalized, or implemented. About 10 new regulations are finalized every day, according to data on regulations.gov, adding to the volumes of rules small business owners must comply with. This constant onslaught of government regulation makes it incredibly difficult for me to operate my day to day business. Further, there is little currently done by the Department of Labor to ensure that any new regulations adequately consider the impact on small businesses.

The Regulatory Flexibility Act only requires agencies to consider those small entities that are directly impacted by a new regulation. Consequently, regulators may ignore foreseeable indirect impacts a new

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<sup>1</sup> [nfib.com/sbet](http://nfib.com/sbet)

<sup>2</sup> <http://www.nam.org/Data-and-Reports/Cost-of-Federal-Regulations/Federal-Regulation-Executive-Summary.pdf>

<sup>3</sup> <http://www.reginfo.gov/public/do/eAgendaMain>

regulation may have on a small business. Regulatory agencies often proclaim indirect benefits for regulatory proposals, but fail to analyze and make publicly available the indirect costs to consumers, such as higher energy costs, lost jobs and higher prices. Agencies should be required to make public and take into account for procedural purposes a reasonable estimate of indirect impact. Congress should do a better job of holding agencies accountable for providing a balanced statement of costs and benefits in public regulatory proposals.

Another problem facing most small businesses is the startling lack of compliance assistance and support from agencies when dealing with any new regulations. Approximately 82 percent of small businesses find out about regulatory requirements in the course of normal business activities.<sup>4</sup> What this figure shows is that companies that want to abide by the law, that want to do the right thing, often times are caught unaware of any change in circumstances. Instead of agencies educating these small businesses about new regulatory requirements, often times they are more concerned about regulatory enforcement and collecting fines. By focusing more on the carrot of compliance assistance as opposed to the stick of enforcement, agencies would make small businesses more aware and put them in a better position to protect workers.

Additionally, an important safeguard against new regulations for small businesses, Small Business Advocacy Review (SBAR) panels are currently only required at the U.S. Environmental Protection Agency, the Occupational Safety and Health Administration, and the Consumer Financial Protection Bureau. SBAR panels represent an important check on proposed regulations that will impact small businesses, by allowing a panel of small business owners and stakeholders to propose recommendations for regulatory alternatives. SBAR panels should be expanded to cover all agencies issuing rules that affect small businesses, and in particular the entire Department of Labor, as a means to require these agencies to evaluate the burdens their rules place on small employers.

I would like to spend the rest of my time telling you about my personal experience dealing with government regulations. Highland Engineering, Inc. was founded in 1986 and moved to Howell, MI in 1987. We specialize primarily in Troop Support Equipment (Water Purification, Field Feeding and Hygiene Systems) for the U.S. Department of Defense. With 45 full time employees, we are a contractor for all branches of the Department of Defense as well as the Federal Emergency Management Agency

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<sup>4</sup> <http://411sbfacts.com/sbpoll.php?POLLID=0038>

and Foreign Militaries. In addition to our government work, we also serve commercial customers in the automation and water treatment industries.

Throughout our company's nearly 30 year history, I have seen the impact of indirect costs of excessive regulation, particularly in the past four years. For example, the numbers of clauses in our contracts have increased nearly 50 percent since 2011. Additionally, reporting requirements have increased to the point that they have become duplicative and overbearing. Keeping up with these ever changing regulations is such a task that I've had to hire a professional compliance officer (who also happens to be my wife Sally) to work ten to twenty hours per week, solely to make sure we're abiding by complex, uncertain, and ever changing regulations. Each time a new regulation comes out she has to research it, decide if it pertains to us, if it does pertain to us figure out what to do, and then ensure we comply.

The pace of changes in regulations is astounding. In October of 2011 the Federal Acquisition Regulation or FAR was on revision 44, by October of 2015 it is now on revision 84. With this current pace of excessive regulation by the Administration, more and more small businesses will either have to divert our monies to hiring compliance personnel as we did, or will simply decide that the burden is too great and get away from the over regulation by dissolving the business. Further, the companies still doing business with the government are passing on those increased costs to the taxpayers. Instead of being able to use this money to invest in the company's development, or hire new employees, instead we have had to focus on understanding and complying with new regulations.

Further, in my experience with the Department of Labor (DOL), I have found the agency to be more interested in trying to find what we did "wrong" instead of providing assistance and education in understanding new rules. My company set up an Employee Stock Ownership Plan (ESOP), as a way to take care of our employees and provide for their retirement. We hired lawyers to make sure we understood the process and did it "right." After the plan was filed with the DOL and underway the DOL determined that they needed to "audit" us. After 17 months of what we felt was nothing more than a fishing expedition, they determined that we did everything 100% correct. Those 17 months cost us a lot of money and time. The annual reporting requirements for our ESOP continue to change as well, making it difficult and time consuming for our company to keep up with the new changes to avoid fines.

Highland Engineering's business is primarily with government agencies, and we have seen first-hand the detrimental effects of ever changing and excessive regulations, especially as a small business with limited resources. Resources that could be used better to more fully support our warfighters, which is our core mission. Federal agencies should more fully take into account the regulatory burdens faced by small business and be required to conduct SBAR panels. Expanding SBAR panels to all agencies, including the DOL, will go a long way to ensure that any new regulations do not have unintended negative consequences on small businesses, including their growth.

As Congress examines the current regulatory burden faced by small business owners, I would encourage you to keep the following goals in mind. Working towards these goals will create a more stable, pro-growth environment for small businesses to thrive: 1) agencies should take into account a proposed regulation's indirect economic impact on small businesses, 2) agencies should increase compliance assistance so small businesses acting in good faith can continue to operate without fear of undue penalties, and 3) the DOL (and all agencies) should be required to conduct SBAR panels when considering any new regulation.

Small businesses truly are the engine of economic growth. This isn't just a slogan, as small businesses created two-thirds of the net new jobs over the last decade. Small business owners are risk takers and entrepreneurs. They are the last businesses to lay off employees when business declines and slow to rehire when business picks up. The owner works as many hours as necessary. When a small business hires an employee, it is their intent to keep them on for the long run.

The current state of government regulation has become a confusing and unpredictable challenge for the vast majority of small business owners. Government regulation should not hinder the ability of small business owners to create or expand their businesses. The current pace of new regulation, combined with the existing regulatory burden, can dictate the business decisions an owner must make, whether it means utilizing a regulatory compliance officer, attempting to expand its business operations, or hiring new, full-time employees for the businesses primary function.

Making regulations more accountable to the indirect economic impact on small businesses, increasing compliance assistance, and expanding SBAR panels to the Department of labor should be priorities of Congress in order to spur job growth and promote business creation. I appreciate Congress taking a look

at the current regulatory regime and urge you to keep in mind the unique challenges that face small businesses.

Thank you again for having me here today and I'm happy to answer any questions you may have.