

November 22, 2021

Mr. Bryan Smolock  
Director, Bureau of Labor Law Compliance  
Pennsylvania Department of Labor & Industry  
651 Boas Street  
Harrisburg, PA 17121

**Re: Request to Extend Public Comment Period for Minimum Wage Proposal**

Dear Mr. Smolock:

We write on behalf of our organizations, representing a broad range of Pennsylvanians and employers in the Commonwealth, regarding Regulation #12-114, amendments to 34 Pa. Code Chapter 231 with respect to minimum wage and overtime.

We respectfully request that the Department of Labor & Industry utilize its right under the Regulatory Review Act to extend the public comment period beyond 30 days following publication in the Pennsylvania Bulletin. (1 Pa. Code § 305.3(b))

While the various policy changes in this proposed rule will no doubt prompt a variety of views from Pennsylvanians, it is clear the employers most impacted come from the food service industry that was decimated by the pandemic and business shutdown orders. This industry remains in a tenuous state and continues to face daunting challenges and additional costs to comply with new regulations and help ensure workplace safety.

Many employers in this industry are also still reviewing the Executive Order signed by Gov. Wolf barely a month ago related to mandatory wage increases and paid leave for employers receiving state assistance. This order has the potential to trigger significant cost increases, depending on the extent of applicability, and is one additional factor employers must consider when evaluating additional new mandates, such as Regulation #12-114.

These employers and all stakeholders deserve the opportunity and time to understand the proposal and provide comment if they so choose; and 30 days is simply not enough time. And in reality, Pennsylvanians have just nineteen work days following publication before comments are due and that is assuming individuals became aware on Saturday, Nov. 20, when the rule was published. Despite our organizations' efforts to alert our respective members, it is likely a significant segment of the impacted population will not be aware of the proposal for some time.

The Regulatory Review Act provides that “An agency may extend or reopen the public comment period by delivering notice to the Commission and the committees, and publishing a notice in the Pennsylvania Bulletin that specifies the close of the extended or reopened public comment period.” We respectfully suggest that agencies were given this discretion for just this type of circumstance, and accordingly, request an extension to the public comment period.

Thank you for considering our views on this important matter.

Sincerely,

National Federation of Independent Business  
Pennsylvania Campground Owners Association  
Pennsylvania Chamber of Business and Industry  
Pennsylvania Food Merchants Association  
Pennsylvania Licensed Beverage & Tavern Association  
Pennsylvania Restaurant & Lodging Association  
Pennsylvania Retailers' Association

cc: The Honorable Jennifer Berrier, Secretary, Pennsylvania Department of Labor & Industry  
The Honorable George Bedwick, Chairman, Independent Regulatory Review Commission  
The Honorable Camera Bartolotta, Chair, Senate Labor & Industry Committee  
The Honorable Christine Tartaglione, Democratic Chair, Senate Labor & Industry Committee  
The Honorable Jim Cox, Chair, House Labor & Industry Committee  
The Honorable Gerald Mullery, Democratic Chair, House Labor & Industry Committee