

Education and Workforce Committee: January 28, 2000

Statement on OSHA Home Office Regulations Submitted before the Subcommittee on Oversight and Investigations

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Statement of HON. RON PAUL OF TEXAS

Mr. Chairman, I appreciate the opportunity to express my concerns regarding the possibility that the Occupational Safety and Health Administration (OSHA) will attempt to exercise regulatory authority over home-based worksites and hold employers responsible for accidents occurring in such worksites. Although OSHA has announced that it will only hold employers liable for conditions at home-based worksites if the employee is performing "hazardous manufacturing work," this proposal still raises serious concerns. This is because any expansion of OSHA's regulatory authority in the homes represents a major expansion of federal authority far beyond anything intended by Congress when it created OSHA in the 1970s. Furthermore, OSHA regulation of any type of work in the private residence opens the door to the eventual regulation of all home worksites. In order to ensure home-based workers are protected from overzealous federal bureaucrats, Congressman J.D. Hayworth (R-AZ) and myself have introduced legislation, the Home Office Protection Enhancement (HOPE) Act, amending the Occupational Safety and Health Act to clarify that OSHA has no authority over worksites located in an employee's residence. Modern technology, such as e-mail and the Internet, allows employees to be productive members of the workforce without leaving their homes! The option of "telecommuting" is particularly valuable for women with young children or those caring for elderly parents. Using technology to work at home gives these Americans the chance to earn a living and have a fulfilling career while remaining at home with their children or elderly parents. Telecommuting also makes it easier for citizens with disabilities to become productive members of the job market. Any federal requirements holding employers liable for the conditions of a home office may well cause some employers to forbid their employees from telecommuting,

thus shutting millions of mothers, persons caring for elderly parents, and disabled citizens out of the workforce! Federal policies discouraging telecommuting will harm the environment by forcing American workers out of their home and onto America's already overcrowded roads. It is ironic that an administration, which has claimed that "protecting the environment" is one of its top priorities, would even consider policies that could undermine a market-created means of protecting the environment. Employers who continue to allow their employees to telecommute will be forced by any OSHA regulations on home offices to inspect their employees' homes to ensure they are in compliance with any and all applicable OSHA regulations. This is a massive invasion of employees' privacy. What employee would want their boss snooping around their living room, den, or bedroom to make sure their "home-based worksite" was OSHA compliant? Mr. Chairman, the fact that OSHA would even consider exercising regulatory authority over any part of a private home shows just how little respect OSHA has for private property. Private property, of course, was considered one of the bulwarks of liberty by our nation's founding fathers, and has been seriously eroded in this country. While it is heartening that so many members of Congress have expressed their displeasure with OSHA over this issue, I am concerned that most of the debate has focused on the negative consequences of this regulation instead of on the question of whether OSHA has the constitutional authority to regulate any part of a private residence (or private business for that matter). The economic and social consequences of allowing federal bureaucrats to regulate home offices certainly should be debated. However, I would remind my colleagues that conceding the principle that the only way to protect worker safety is by means of a large bureaucracy with the power to impose a "one-size fits all" model on every workplace in America ensures that defenders of the free market will be always on the defensive, trying to reign in the bureaucracy from going "too far" rather than advancing a positive, pro-freedom agenda. Furthermore, many companies are experiencing great success at promoting worker safety by forming partnerships with their employees to determine how best to create a safe workplace. This approach to worker safety is both more effective, and constitutionally sound, than giving OSHA bureaucrats the power to, for example, force landscapers to use \$200 gas cans instead of \$5 cans or fining a construction company \$7,000 dollars because their employees jumped in a trench to rescue a trapped man without first putting on their OSHA-approved hard hats; or fine a company because it failed to warn employees not to eat copier toner! Some may argue that occasional regulatory excess is a small price to pay for a safe workplace. However, there is no evidence that OSHA's invasiveness promotes workplace safety! While it is true that workplace accidents have declined since OSHA's creation, OSHA itself has had little effect on the decline. Workplace deaths and accidents were declining before OSHA's creation, thanks to improvements in safety technology and changes in the occupational distribution of labor. Workplace fatalities declined from 30 deaths per 100,000 in 1945 to 18 deaths per 100,000 in 1969, three years before OSHA's creation. In contrast to the dramatic drop in workplace fatalities in the 24 years before OSHA's creation, workplace fatalities only declined from 18 per 100,000 to eight in the 21 years after OSHA's creation. OSHA's role in this decline was negligible! According to Richard Butler of the University of Minnesota, who studied National Safety Council data on workplace fatality rates, OSHA's contribution to workplace fatality rates is "statistically insignificant." This is not an isolated example; the vast majority of workplace studies show an insignificant role for OSHA in reducing workplace injuries. This is why I have supported several legislative efforts to encourage more cooperative approach to workplace safety. I hope Congress will continue to work to replace the old "command-and control" model with one that respects the constitution

and does not treat Americans like children in need of the protection of "big brother" government.

In conclusion, I wish to once again thank Mr. Hoesktra for holding this hearing on this important issue and urge my colleagues to join with Mr. Hayworth and myself to protect those who work at home from further over-regulation by cosponsoring the Home Office Protection Enhancement Act (HOPE) Act.