



November 7, 2024

The Honorable Jessica Looman
Administrator
Wage and Hour Division
U.S. Department of Labor
200 Constitution Ave NW
Washington, DC 20210

Dear Administrator Looman:

Due to the pending legal challenges to the Wage and Hour Division's (WHD) "Defining and Delimiting the Exemptions for Executive, Administrative, Professional, Outside Sales, and Computer Employees" Final Rule (overtime rule),¹ the Partnership to Protect Workplace Opportunity (PPWO) and the 73 undersigned organizations write to request WHD delay implementation of the second increase to the minimum salary threshold as mandated by the Final Rule from January 1, 2025 to at least May 1, 2025. This additional time will ensure that employers will not be forced to implement the new salary threshold when it might not survive judicial review, which is currently underway.

PPWO is a coalition of a diverse group of associations, businesses, and other stakeholders representing employers with millions of employees across the country in almost every industry. Formed in 2014, the Partnership is dedicated to advocating for the interests of its members in the regulatory debate on changes to the Fair Labor Standards Act overtime regulations. PPWO's members believe that employees and employers alike are best served with a system that promotes maximum flexibility in structuring employee hours, career advancement opportunities for employees, and clarity for employers when classifying employees.

The new overtime rule implements two increases to the minimum salary threshold under which all workers must be paid overtime. The first increase went into effect on July 1, and the second is set to be implemented on January 1, 2025, when the threshold will increase from almost \$44,000 per year to more than \$58,000 per year. In total, the changes will increase the minimum salary threshold 65% in less than a year.² This considerable increase is not only extremely costly but also exceedingly burdensome for employers of all sizes nationwide. Should the second increase take effect, employers across the country will be required to make significant changes to their payrolls as well as employee classifications and benefits. Additionally, WHD will have to dedicate resources to implementing the new rule and educating employers and employees on the changes.

¹ 89 Fed. Reg. 32842 (April 26, 2024), 29 CFR 541.

² Similarly dramatic increases have taken, and will take, place for the salary threshold for highly compensated employees. On January 1, 2025, the new threshold will jump from about \$133,000 per year to more than \$151,000 per year.



If the courts should then invalidate the rule, resources spent on implementation will have been unnecessarily wasted.

There are currently three legal challenges to the final rule in federal courts. The District Court for the Eastern District of Texas is expected to issue a decision soon in a case in which the state of Texas, the Plano Chamber of Commerce, and several other employer organizations challenged the legality of the rule. Importantly, the same court has already issued a limited preliminary injunction against the rule due to its inherent flaws. While the preliminary injunction only applied to Texas state employees, the ruling suggests that the court found merit in Texas' case and that the rule will not survive judicial scrutiny.

While court decisions in these challenges are expected in the coming weeks, they are not guaranteed. Moreover, the implementation date is rapidly approaching. Therefore, pursuant to 5 U.S. Code § 705, WHD should delay implementation of the second increase to at least May 1, 2025, to provide clarity and certainty to the employer community. This will provide employers with sufficient time to analyze the eventual decision and determine and implement necessary changes to come into compliance with the rule, should the rule be upheld. Importantly, other federal agencies during the Biden administration have appropriately delayed the implementation of rule changes pending the outcome of litigation. For example, the Securities and Exchange Commission indefinitely delayed implementation of its climate-related disclosure rules as court challenges proceeded.

A delay could save employers and the agency significant resources. PPWO and the undersigned organizations therefore urge WHD to delay implementation until at least May 1, 2025.

Sincerely,

Partnership to Protect Workplace Opportunity
AAHOA, the Asian American Hotel Owners Association
AASA, The School Superintendents Association
AICC, The Independent Packaging Association
American Association of Advertising Agencies (4A's)
American Bakers Association
American Bus Association
American Council on Education
American Foundry Society
American Society of Travel Advisors (ASTA)
American Staffing Association
American Trucking Associations
AmericanHort
Americsn Hotel & Lodging Association
Associated Builders and Contractors
Associated Equipment Distributors



Associated General Contractors of America
Association of School Business Officials International (ASBO)
College and University Professional Association for Human Resources
Construction Industry Round Table
Education Market Association
Energy Marketers of America
FMI – The Food Industry Association
Foodservice Equipment Distributors Association
Fraternity Executives Association
Global Cold Chain Alliance
Health & Fitness Association
Heating, Air-conditioning, & Refrigeration Distributors International
Independent Electrical Contractors
Independent Lubricant Manufacturers Association
International Bottled Water Association
International Foodservice Distributors Association
International Franchise Association
International Warehouse Logistics Association (IWLA)
National Apartment Association
National Association of College and University Business Officers
National Association of College Stores
National Association of Convenience Stores
National Association of Home Builders
National Association of Independent Colleges and Universities (NAICU)
National Association of Manufacturers
National Association of Wholesaler-Distributors
National Automobile Dealers Association
National Beer Wholesalers Association
National Club Association
National Cotton Council
National Cotton Ginners Association
National Council of Chain Restaurants
National Demolition Association (NDA)
National Federation of Independent Business
National Grocers Association
National Lumber & Building Material Dealers Association
National Multifamily Housing Council
National Ready Mixed Concrete Association
National Restaurant Association
National Retail Federation
National RV Dealers Association (RVDA)
National Tooling and Machining Association
National Wooden Pallet & Container Association
NATSO, Representing America's Travel Centers and Truck Stops



PEI

Precision Machined Products Association

Precision Metalforming Association

PRINTING United Alliance

Restaurant Law Center

Saturation Mailers Coalition

Service Station Dealers of America and Allied Trades (SSDA-AT)

SIGMA: America's Leading Fuel Marketers

Small Business & Entrepreneurship Council

Texas Cotton Ginners' Association

The Transportation Alliance

Tire Industry Association (TIA)

U.S. Chamber of Commerce

Workplace Solutions Association