



May 12, 2025

The Honorable Russel Vought
Director
Office of Management and Budget
725 17th St NW,
Washington, DC 20503

Re: Request for Information on Deregulation (FR Doc. 2025-06316) (90 FR 15481)

Dear Director Vought:

The Partnership to Protect Workplace Opportunity¹ (PPWO) writes to thank you for the opportunity to respond to the Office of Management and Budget's (OMB) [Request for Information](#) (RFI) on deregulation. We write to request that OMB consider rescinding the final rule "Defining and Delimiting the Exemptions for Executive, Administrative, Professional, Outside Sales, and Computer Employees" ([RIN 1235-AA39](#)) issued by the Department of Labor as part of its deregulatory efforts. PPWO would like to share the letter that we recently sent to the Department of Labor's Wage and Hour Division (WHD) urging the agency to rescind the final rule as part of its review of all regulations under its purview as required by [Executive Order 14219](#), *Ensuring Lawful Governance and Implementing the President's "Department of Government Efficiency" Deregulatory Initiative*.

As we explain in our letter, this regulation, if kept in effect, would have damaging effects on businesses, entrepreneurs, and workers, including creating unnecessary uncertainty, additional regulatory and administrative burdens, inflationary pressures, and diminished flexibility. Further, two federal district courts have already struck down the rule, having recognized that the Department of Labor exceeded its authority in issuing the rulemaking.² Nonetheless, the rule is still officially on the books. It should be formally rescinded by the Department to ensure it will not be resurrected in the future.

Rescinding this rule would align with the Trump administration's deregulatory agenda and save the agency significant resources. PPWO, therefore, urges OMB to rescind the Biden-era

¹ 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 (FLSA) 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.

² Both cases are now before the U.S. Court of Appeals for the 5th Circuit.



overtime rule.

Sincerely,

Partnership to Protect Workplace Opportunity



April 14, 2025

The Honorable Lori Chavez-DeRemer
Secretary
U.S. Department of Labor
200 Constitution Ave NW
Washington, DC 20210

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

Dear Secretary Chavez-DeRemer and Administrator Harrison:

The Partnership to Protect Workplace Opportunity (PPWO) writes to request the Wage and Hour Division (WHD) consider rescinding the final rule “Defining and Delimiting the Exemptions for Executive, Administrative, Professional, Outside Sales, and Computer Employees” (RIN 1235-AA39) as part of its review of all regulations under its purview required by Executive Order 14219, Ensuring Lawful Governance and Implementing the President’s “Department of Government Efficiency” Deregulatory Initiative. This regulation, if kept in effect, would have damaging effects on businesses, entrepreneurs, and workers, including creating unnecessary uncertainty, additional regulatory and administrative burdens, inflationary pressures, and diminished flexibility. In addition, the regulation falls under multiple categories outlined in the Executive Order as undermining the national interest.

PPWO is a coalition 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 (FLSA) 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.

President Trump’s Executive Order directs agencies to review all regulations within their jurisdictions and, within 60 days, identify those that fall into seven categories that “undermine national interest.” The categories are as follows:

- Are unconstitutional or raise constitutional difficulties, such as exceeding scope of the power vested in the Federal Government by the Constitution;
- Are based on unlawful delegations of legislative power, are based on anything other than the best reading of the underlying statutory authority or provision;
- Implicate matters of social, political, or economic significance that are not authorized by clear statutory authority;
- Impose significant costs upon private parties that are not outweighed by public benefits;



- Harm the national interest by significantly and unjustifiably impeding technological innovation, infrastructure development, disaster response, inflation reduction, research and development, economic development, energy production, land use, and foreign policy objectives; and
- Impose undue burdens on small business and impede private enterprise and entrepreneurship.

Based on these categories, the Office of Information and Regulatory Affairs (OIRA) will publish a regulatory agenda that seeks to rescind or modify the identified regulations.

Below, we provide more detail on the Biden-era overtime rule that we believe the Department of Labor (DOL) should consider rescinding. DOL should also consider abandoning the rule in court, as the U.S. Court of Appeals for the 5th Circuit considers two legal challenges to the rule following its invalidation by two federal district court judges.

Defining and Delimiting the Exemptions for Executive, Administrative, Professional, Outside Sales, and Computer Employees (RIN 1235-AA39)

On April 26, 2024, the Biden DOL issued its overtime final rule, which made several changes to the overtime regulations under the FLSA – specifically, who qualifies for the Executive, Administrative, and Professional (EAP) exemption. The rule raised by nearly 65% the minimum salary threshold above which workers must be paid to be exempt from overtime. It raised the threshold from \$35,568/year to \$58,656/year and mandated that the threshold be increased every three years regardless of economic circumstances.

The rule faces two legal challenges in federal courts. In one case, Texas and Plano Chamber of Commerce, et al, v DOL, brought by the state of Texas, the Plano Chamber of Commerce, and several other employer organizations, the U.S. District Court for the Eastern District of Texas vacated the rule in its entirety. The judge explained that while the Department has authority to define and delimit the overtime exemption’s terms, “that authority ‘is not unbounded.’” He also invalidated the Department’s effort to implement automatic updates to the minimum salary thresholds, which “violates the notice-and-comment rulemaking requirements of the [Administrative Procedure Act].” That case is currently before the U.S. Court of Appeals for the 5th Circuit. DOL’s opening brief is due on May 6. In a separate case, Flint Ave v DOL, the U.S. District Court for the Northern District of Texas also vacated the rule. DOL filed its Notice of Appeal in the case on February 28, 2025, and the case is now headed to the 5th Circuit.

Had the rule gone fully into effect, it would have drastically increased labor costs for businesses and resulted in the reclassification of millions of workers from salaried to hourly,



leaving them without access to benefits, flexible work arrangements, workplace status, or career advancement opportunities. Further, the automatic increases to the mandatory threshold, as noted by the courts, are unlawful, invite inflation, create uncertainty for businesses, and could exacerbate struggles during economic downturns. The first Trump administration issued its own overtime rule in 2019, which reasonably increased the threshold in a manner that businesses could absorb and protected workers. Fortunately, the Trump-era rule – and thereby the minimum salary threshold of \$35,568/year – are again in effect following the District Courts’ decisions.

While not currently in effect, the Biden administration’s overtime rule is still on the books, and the appeal has not been withdrawn. Accordingly, it should be rescinded as it meets several of the criteria identified in the executive order. Because it exceeded the statutory authority granted the Secretary for issuing a regulation to “define and delimit” the exemptions for overtime, it should be considered unconstitutional. The rule also imposes significant costs upon private parties that are not outweighed by public benefit, impedes inflation reduction, imposes undue burdens on small businesses, and impedes private enterprise and entrepreneurship. Withdrawing and rescinding this rule would align with the Trump administration’s deregulatory agenda and save the agency significant resources. PPWO therefore, urges the Department of Labor to rescind the Biden administration’s overtime rule.

Sincerely,

Partnership to Protect Workplace Opportunity