



May 11, 2022

The Honorable Marty Walsh
Secretary of Labor
200 Constitution Avenue, NW
Washington, DC 20210

Re: Request for Abandonment or at Least Postponement of DOL’s Anticipated Overtime Regulations under the Fair Labor Standards Act

Dear Secretary Walsh:

The Partnership to Protect Workplace Opportunity (PPWO or Partnership) and the 93 undersigned organizations urge the Department of Labor’s (DOL or Department) Wage and Hour Division to abandon or at least postpone issuance of its announced proposed rulemaking altering the overtime regulations under the Fair Labor Standards Act (FLSA). Due to significant concerns with supply chain disruptions, workforce shortages, inflationary pressures, and the shifting dynamics of the American workforce following the COVID-19 pandemic, any rule change now would be ill-advised. Importantly, DOL last updated the overtime regulations only three years ago, which strongly suggests there is no need for urgency in issuing more changes.

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 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.

In the Fall 2021 Regulatory Agenda, DOL announced that it planned to issue a Notice of Proposed Rulemaking (“NPRM”) on the “exemption of bona fide executive, administrative, and professional employees from the Fair Labor Standards Act’s minimum wage and overtime requirements” (also known as the “white-collar” exemptions). In anticipation of the NPRM, [PPWO called on DOL](#) “to follow past precedents and hold meetings with the regulated community to obtain input on the potential impact of any changes to the overtime exemption requirements.” PPWO thanks the Department for holding listening sessions in response to the coalition’s request.

As DOL has heard throughout its meetings with the employer community, the economy today cannot support changes to the white-collar exemptions under the FLSA. Industries across the country are still recovering from the impact of the COVID-19 pandemic. Some industries were hit significantly harder than others, including restaurants, the travel industry, and workout facilities. Further, current workforce shortages, supply chain disruptions, economic contraction, and inflation are pushing operational costs ever higher. Inflation is at a 40-year high, supply chains



are struggling to keep up with demand, and businesses nationwide cannot hire enough workers to operate at full capacity. At the same time, we are seeing economic contraction in some sectors and face the specter of both inflation and a recession. Many businesses are not well-positioned to absorb new labor costs associated with changes to the overtime pay regulations, and such changes would only exacerbate the difficulties businesses are currently facing.

The COVID-19 pandemic also has forced the American economy and workforce to adapt to changing circumstances. One of the most significant changes was the move towards remote, hybrid, or part-time work for a significant number of workers, and many experts – as well as our employer members – understand that many of these workers will want to continue to work in these new arrangements. This “new normal” makes compliance with potential changes to the white-collar exemptions measurably more difficult. To comply with overtime regulations, employers will be obligated to monitor non-exempt employees’ worktime, but that may not be compatible with these new workforce dynamics. Consequently, changes to the white-collar exemptions may leave many workers unable to enjoy the part-time or remote work they’ve come to appreciate.

Again, DOL should abandon or at least postpone issuance of its announced NPRM until the current economic situation stabilizes and improves to allow the American workforce, employer community, and DOL itself to more fully understand how the pandemic has shifted the paradigm of work in America.

Thank you for considering these comments.

Sincerely,

4A’s (American Association of Advertising Agencies)
AASA, The School Superintendents Association
AICC, The Independent Packaging Association
American Bakers Association
American Bankers Association
American Bus Association
American Car Rental Association
American Foundry Society
American Horticulture Industry Association (AmericanHort)
American Hotel & Lodging Association
American Mold Builders Association
American Society of Travel Advisors (ASTA)
American Staffing Association
American Supply Association
American Trucking Associations
Asian American Hotel Owners Association
Associated Builders and Contractors
Associated General Contractors of America
Associated Equipment Distributors



Association of Educational Service Agencies
Association of School Business Officials International (ASBO)
Auto Care Association
Building Service Contractors Association International
Coalition of Franchisee Associations
Construction Industry Round Table
Convenience Distribution Association
Education Market Association
Energy Marketers of America
FMI – The Food Industry Association
Forging Industry Association
Franchise Business Services
Global Cold Chain Alliance
Heating, Air-conditioning, & Refrigeration Distributors International
HR Policy Association
IAAPA, The Global Association for the Attractions Industry
IHRSA, the Global Health and Fitness Association
Independent Electrical Contractors
Independent Insurance Agents & Brokers of America
International Association of Plastics Distribution
International Bottled Water Association
International Franchise Association.
International Foodservice Distributors Association
International Public Management Association for Human Resources (IPMA-HR)
International Warehouse Logistics Association
ISSA – The Worldwide Cleaning Industry Association
Littler Workplace Policy Institute
Manufacturers' Agents Association for the Foodservice Industry
Manufactured Housing Institute
Motor and Equipment Manufacturers Association (MEMA)
National Apartment Association
National Armored Car Association
National Association for Pupil Transportation
National Association of College Stores
National Association of Convenience Stores
National Association of Manufacturers
National Association of Wholesaler-Distributors
National Christmas Tree Association
National Electrical Manufacturers Representatives Association
National Federation of Independent Business
National Franchisee Association
National Independent Automobile Dealers Association (NIADA)
National Lumber and Building Material Dealers Association
National Marine Distributors Association
National Multifamily Housing Council



National Newspaper Association
The National Parking Association
National Public Employer Labor Relations Association
National Ready Mixed Concrete Association
National Retail Federation
National Rural Education Advocacy Consortium
National Rural Education Association
National RV Dealers Association
National Small Business Association
National Stone, Sand & Gravel Association
National Tooling and Machining Association
National Wooden Pallet & Container Association
NATSO, Representing America's Travel Plazas and Truckstops
North American Die Casting Association
Outdoor Power Equipment and Engine Service Association
Pennsylvania Food Merchants Association
Portland Cement Association
Precision Machined Products Association
Precision Metalforming Association
Promotional Products Association International
Saturation Mailers Coalition
Service Station Dealers of America and Allied Trades (SSDA-AT)
SIGMA: America's Leading Fuel Marketers
Society of American Florists
Specialty Equipment Market Association
Specialty Tools & Fasteners Distributors Association
Tire Industry Association (TIA)
Tree Care Industry Association
U.S. Chamber of Commerce