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BLOGS

Archives; Department of Labor; Wage & Hour; Workplace Policies

DOL Officially Changing Course on Persuader and Overtime Rules

Just days after [withdrawing some of its guidance](#) on joint employer and independent contractor issues, the U.S. Department of Labor (DOL) indicated it will soon reconsider the much maligned Persuader Rule and white-collar Overtime Rule that were both enjoined last fall. The DOL wants to rescind the Persuader Rule and plans to seek additional public comment on the white-collar salary thresholds set forth in the Overtime Rules.

As a reminder, the Persuader Rule would have required employers to publicly disclose when they use consultants (including lawyers) to obtain labor relations advice and services for the purpose of persuading employees regarding union organizing. The consultants/lawyers would also have been required to file reports containing details about their advice and the payments received for such advice. Previously, such reports were only required when a consultant providing advice had direct contact with employees. On June 12, 2017, the *Federal Register* published the DOL's proposal to rescind the Persuader Rule in order to consider the potential effects of the Rule on attorneys and employers seeking legal assistance and the impact of shifting priorities and resource constraints. Comments on this proposal are due by August 11, 2017.

Additionally, on June 7, DOL Secretary Alexander Acosta indicated during a House Appropriations Subcommittee hearing that the DOL plans to issue a Request for Information (RFI) on the Overtime Rule that was enjoined last fall. The Overtime Rule would have more than doubled the minimum required salary level for white-collar exempt employees, moving it from \$455 per week (\$23,660 annually) to \$913 per week (\$47,476 annually). An RFI is typically used when an agency wants public comment on whether changes to an existing rule are warranted. The DOL's indicating that it will issue an RFI suggests the DOL may intend to revamp the Overtime Rule. While Secretary Acosta did not indicate the exact timing of the proposed RFI, he did say that the DOL would publish the request in the next two to three weeks.

The DOL appears to be working quickly to undo a number of Obama-era policies and regulations. These latest moves combined with the rescission of the joint employer and independent contractor guidance suggest that the DOL is likely to drastically shift priorities under President Trump. Employers should continue to monitor new developments and consult with legal counsel regarding the status of key regulations and initiatives.