



## DEPARTMENT OF LABOR

### Wage and Hour Division

### 29 CFR Parts 780, 788, and 795

### RIN 1235-AA43

### Employee or Independent Contractor Classification Under the Fair Labor Standards Act;

### Extension of Comment Period

**AGENCY:** Wage and Hour Division, Department of Labor.

**ACTION:** Proposed rule; extension of comment period.

**SUMMARY:** This document extends the deadline for submitting written comments on the Notice of Proposed Rulemaking (NPRM), Employee or Independent Contractor Classification Under the Fair Labor Standards Act, to December 13, 2022. The U.S. Department of Labor (Department) is taking this action to provide interested parties additional time to submit comments.

**DATES:** The comment period for the NPRM that previously published on October 13, 2022, *see* 87 FR 62218, has been extended. The Department must now receive comments on or before December 13, 2022.

**ADDRESSES:** You may submit comments, identified by Regulatory Information Number (RIN) 1235-AA43, by either of the following methods:

- *Electronic Comments:* Submit comments through the Federal eRulemaking Portal at <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Mail:* Address written submissions to Division of Regulations, Legislation, and Interpretation, Wage and Hour Division, U.S. Department of Labor, Room S-3502, 200 Constitution Avenue, N.W., Washington, DC 20210.

*Instructions:* Please submit your comment by only one method. Of the two methods, the Department strongly recommends that commenters submit their comments electronically via

<https://www.regulations.gov> to ensure timely receipt prior to the close of the comment period, as the Department continues to experience delays in the receipt of mail. All comments must be received by 11:59 p.m. ET on December 13, 2022, for consideration in this rulemaking; comments received after the comment period closes will not be considered.

Commenters submitting file attachments on <https://www.regulations.gov> are advised that uploading text-recognized documents— i.e., documents in a native file format or documents which have undergone optical character recognition (OCR)—enable staff at the Department to more easily search and retrieve specific content included in your comment for consideration. This recommendation applies particularly to mass comment submissions, when a single sponsoring individual or organization submits multiple comments on behalf of members or other affiliated third parties. The Wage and Hour Division (WHD) posts such comments as a group under a single document ID number on <https://www.regulations.gov>.

Anyone who submits a comment (including duplicate comments) should understand and expect that the comment will become a matter of public record and will be posted without change to <https://www.regulations.gov>, including any personal information provided. Accordingly, the Department requests that no business proprietary information, copyrighted information, or personally identifiable information be submitted in response to this NPRM.

*Docket:* For access to the docket to read background documents or comments, go to the Federal eRulemaking Portal at <https://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** Amy DeBisschop, Division of Regulations, Legislation, and Interpretation, Wage and Hour Division (WHD), U.S. Department of Labor, Room S-3502, 200 Constitution Avenue, NW, Washington, DC 20210; telephone: (202) 693-0406 (this is not a toll-free number). Alternative formats are available upon request by calling 1-866-487-9243. If you are deaf, hard of hearing, or have a speech disability, please dial 7-1-1 to access telecommunications relay services.

Questions of interpretation and/or enforcement of the agency's regulations may be directed to the nearest WHD district office. Locate the nearest office by calling WHD's toll-free help line at (866) 4US-WAGE ((866) 487-9243) between 8 a.m. and 5 p.m. in your local time zone, or logging onto WHD's website for a nationwide listing of WHD district and area offices at <http://www.dol.gov/whd/america2.htm>.

## **SUPPLEMENTARY INFORMATION:**

### **I. Electronic Access and Filing Comments**

Public Participation: The NPRM is available through the *Federal Register* and the <http://www.regulations.gov> website. You may also access the NPRM through the Department's website at <http://www.dol.gov/federalregister>. To comment electronically on federal rulemakings, go to the Federal eRulemaking Portal at <http://www.regulations.gov>, which will allow you to find, review, and submit comments on federal documents that are published in the Federal Register and open for comment. Please identify all comments submitted in electronic form by the RIN 1235-AA43. Because of delays in receiving mail in the Washington, DC area, in order to ensure timely receipt prior to the close of the comment period, commenters should transmit their comments electronically through the Federal eRulemaking Portal at <http://www.regulations.gov> or submit them by mail early. Please submit your comment by only one method.

### **II. Request for Comment**

On October 11, 2022, the Department announced an NPRM intended to help businesses and workers determine whether a worker is an employee or an independent contractor under the Fair Labor Standards Act (FLSA). The Department published the NPRM in the *Federal Register* on October 13, 2022 (87 FR 62218), which instructed interested parties to submit comments on or before November 28, 2022, providing 46 days for comments.

Following publication of the NPRM, the Department received requests to extend the NPRM's comment period. After consideration of the extension requests, the Department has

decided to extend the period for submitting public comment for 15 additional days (*i.e.*, until December 13, 2022), lengthening the comment period to 61 days total.

The Department takes seriously its obligation to consider any “written data, views, or arguments” submitted by commenters and looks forward to reviewing all feedback received on the NPRM before the close of the comment period. *See* 5 U.S.C. 553(c). The Department encourages all interested parties to submit comments electronically on [www.regulations.gov](http://www.regulations.gov) (RIN 1235-AA43) by 11:59 pm ET on Tuesday, December 13, 2022.

**Martin J. Walsh,**

*Secretary of Labor.*

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