



Workplace Law Regs On White House Chopping Block

Insights

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Last week, President Trump signed an executive order requiring every federal agency to establish a “Regulatory Reform Task Force” to eliminate what he considers to be unnecessary and burdensome regulations hampering the American economy. Coming on the heels of a meeting with the Business Roundtable, a conservative collection of management executives formed to promote pro-business public policy, it appears that a number of workplace regulations could be on the chopping block.

Summary Of Executive Order

The executive order, signed February 24, orders the head of each federal agency to designate a Regulatory Reform Officer within 60 days, or by April 25, 2017. That Officer will form a Regulatory Reform Task Force tasked with evaluating existing regulations overseen by that agency and identifying potential regulations to be modified or repealed. The executive order directs each Task Force with singling out those regulations deemed costly and unnecessary. They are instructed to pay particular attention to those rules that eliminate jobs, inhibit job creation, are outdated, ineffective, impose costs that outweigh benefits, or otherwise interfere with the president’s initiatives and policies.

To hold each Task Force accountable, each agency is required to measure and report progress on achieving these directives. Each Task Force must present a report to the agency head by May 25, 2017 providing an update specifically identifying those regulations that should be repealed, replaced, or modified.

Business Roundtable Identifies 7 Regulations To Be Addressed

The day before this executive order was signed, President Trump met with a group of business executives from the Business Roundtable to discuss, in part, regulations that should be axed or adjusted. The group presented the president with a six-page letter outlining a list of its top regulations of concern, which included seven regulations that directly impact labor and employment law. The seven regulations identified by the Business Roundtable are:

1. **Affordable Care Act (ACA) Employer Reporting Requirements**

The business group says that the reporting requirements impose significant administrative costs, and that it supports “streamlining or eliminating ACA employer reporting requirements.”

2. **EEOC Wellness Program Rules**

The Equal Employment Opportunity Commission (EEOC) has proposed standards for employer-sponsored wellness programs that the business group believes “differ needlessly” from those

sponsored wellness programs that the business group believes differ needlessly from those established under the ACA. The Business Roundtable calls on the president to take an administration-wide, coordinated, consistent policy with respect to wellness plans.

3. **ACA Excise Taxes**

The group points out that the ACA imposes a 40 percent excise tax if the aggregate cost of applicable employer-sponsored coverage provided to an employee exceeds a certain statutory dollar limit (adjusted annually). The group states the impact of this tax liability will continue to grow to “staggering” proportions and recommends it be eliminated.

4. **Overtime Regulations**

The final Department of Labor (USDOL) regulations aim to increase the annual salary threshold used to determine which workers are eligible for overtime pay from \$23,660 to \$47,476, and to adjust that figure each year. Although the rule is currently blocked by a court order, the Business Roundtable wants the matter addressed by the Trump administration. It said it was “particularly concerned with the implications of giving the USDOL authority to automatically increase the salary threshold to salary levels.”

5. **Fair Pay And Safe Workplaces Executive Order (EO 13673)**

These rules, sometimes known as the “blacklisting rules,” would require federal contractors to report past instances of workplace law violations when bidding on new work with the government. The Business Roundtable wants these regulations invalidated altogether, claiming they unnecessarily burden the contracting process, add hundreds of millions of dollars to regulatory costs, and increase litigation while pressuring employers to settle meritless claims. They are currently blocked by court order and the subject of ongoing litigation.

6. **EEOC’s Revised Employment Information Report**

The new EEO-1, which will be due in March 2018, requires all employers with 100 or more workers to provide detailed compensation data to the government for 2017 broken down by gender and other demographic categories. The group says the new EEO-1 rule “imposes sizable compliance burdens on businesses while failing to yield useful information on discrimination.” For these reasons, the group asks the administration to review the policy and rescind the underlying rule if warranted.

7. **CEO Pay Ratio Disclosure**

Finally, the Business Roundtable points to SEC rules requiring companies to calculate and disclose CEO pay as a ratio of average employee pay as “arbitrary,” “meaningless,” and not helpful. It asks the administration to reconsider the rule and push for a full Congressional repeal of the underlying statute requiring the disclosure.

Fisher Phillips will monitor the administration’s progress regarding each of these regulations and provide regular updates as warranted. For more information, contact your Fisher Phillips attorney.

This Legal Alert provides an overview of a specific executive order. It is not intended to be, and should not be construed as, legal advice for any particular fact situation.

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