



OCT 16 2020

The Honorable Robert C. "Bobby" Scott
Chairman
Committee on Education and Labor
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Scott:

The Department of Labor (Department) received your letter regarding the Wage and Hour Division's (WHD) Notice of Proposed Rulemaking (NPRM) to address the distinction between independent contractors and employees covered by the Fair Labor Standards Act (FLSA).¹ Your letter requested the comment period be extended by at least 30 additional days "to give stakeholders adequate time to fully comment."

The Department has determined that 30 days is a sufficient period of time to comment, and therefore will not extend the comment period for this NPRM. Without regulatory guidance, workers and businesses must attempt to locate fact-specific court decisions or subregulatory guidance and attempt to determine whether the facts of those work arrangements are sufficiently comparable to their own. The lack of regulatory guidance underscores the need for an expedient rulemaking.

The Department takes seriously its obligation under the Administrative Procedures Act 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.² The Department encourages you and any interested constituents to submit comments electronically on www.regulations.gov (RIN 1235-AA34) by 11:59 pm on Monday, October 26, 2020.³

Thank you for your interest in this rulemaking.

Sincerely,

A handwritten signature in blue ink that reads "Joe Wheeler".

Joe Wheeler
Deputy Assistant Secretary

¹ See 85 FR 60600, *Independent Contractor Status Under the Fair Labor Standards Act* (Sept. 25, 2020).

² 5 U.S.C. § 553(c).

³ Commenters submitting file attachments on 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.