



September 4, 2015

Wage and Hour Division
US Department of Labor
Room S-3502
200 Constitution Avenue, N.W.
Washington D.C. 20210

Re: Docket No. WHD-2015-0001; Defining and Delimiting the Exemptions for Executive, Administrative, Professional, Outside Sales and Computer Employees

Dear Sir or Madam:

The American Feed Industry Association (AFIA) is the world's largest organization devoted exclusively to representing the business, legislative and regulatory interests of the United States animal feed industry and its suppliers. Founded in 1909, AFIA also is the recognized leader on international industry developments. AFIA represents the total feed industry, and its members include more than 575 domestic and international companies and state, regional and national associations. Member companies are livestock feed and pet food manufacturers, integrators, pharmaceutical companies, ingredient suppliers, equipment manufacturers and companies which supply other products, services and supplies to feed manufacturers.

AFIA appreciates the opportunity to submit public comments on the Department of Labor's Wage & Hour Division's (DOL) proposal: Defining and Delimiting the Exemptions for Executive, Administrative, Professional, Outside Sales and Computer Employees (the Proposed Rule). While AFIA appreciates the Obama Administration's desire to raise the incomes of the middle class, AFIA believes that a dramatic federal mandate, as suggested in the Proposed Rule, is misguided. The Proposed Rule, if implemented under its present terms, would unnecessarily burden AFIA's members, leading to fewer entry-level hires, reclassification of some current executive, administrative, and professional positions, and increased recordkeeping burdens. In all likelihood, these additional costs would be passed along to consumers, causing an increase in food prices.

The Proposed Rule's one-size-fits-all approach to modifying the salary thresholds for exempt employees fails to take into consideration regional differences in median incomes. Many of AFIA's members have employees located in rural areas where competitive salaries are oftentimes considerably lower than in metropolitan centers. The Proposed Rule would unfairly burden businesses located in rural areas.

Our Industry. Our Passion. Our Voice.

Many of the entry-level management employees in the feed industry typically start with salaries of less than \$50,400 per year. These employees oftentimes work more than 40 hours a week while they are learning the responsibilities of their new positions. These entry-level employees are frequently in training and may, in some instances, need to take additional coursework, travel, or review training materials outside of what would be considered their normal working hours. The Proposed Rule, if implemented as is, would provide a disincentive to invest training resources in entry-level managers because training time would count against an employee's 40-hour workweek. Withholding training opportunities could reduce an employee's effectiveness and limit an employee's career advancement opportunities.

Adopting the Proposed Rule would place many of AFIA's members in a position where they would have to either hire fewer entry-level management employees or closely monitor and reduce the number of hours worked by entry-level managers. Either way, the Proposed Rule will have a disruptive effect that will both reduce employment opportunities and employee productivity.

Increasing the overtime threshold from \$23,660 to \$50,400 would be a shock to the system of many of AFIA's members. Employers will need to monitor time for employees that were previously exempt from overtime. Additional overtime expenses would need to be built into budgets. The Proposed Rule's impact would be especially acute for small businesses. Nearly one-third of the AFIA member firms surveyed indicated the Proposed Rule would be a disincentive to hire trainee/entry-level employees and more than half said they would spend an additional \$200 or more per week on management expenses associated with monitoring employee overtime. In other words, the Proposed Rule would lead to fewer salaried jobs in the feed industry and higher costs passed along to consumers – a lose-lose proposition.

Furthermore, near three-fourths of those responding to AFIA's member survey said the overtime exemption threshold should be in the range of \$29,000-\$40,000 per year. Most of AFIA's internal survey respondents indicated that the higher level proposed in this rule is not in line with agricultural and rural facilities, where most AFIA member operations are located. The vast majority of the respondents in the survey said this would impact between 10 and 25 percent of the members' workforce—a sizeable adjustment to make. Additionally, over half the respondents said this would impact supervisory employees as well.

AFIA's members believe in fairly compensating their employees based on an employee's skills, knowledge, experience, job responsibilities and the prevailing market conditions. A one-size-fits-all federal mandate, although well intentioned, is not a long-term solution to improving the economy. It will have the impact of reducing employment and advancement opportunities in the American feed industry and will pass along additional costs to consumers.

AFIA is also opposed to provisions in the Proposed Rule that would tie the overtime exemption salary threshold to the 40th percentile of salaries earned by U.S. workers. This figure will likely fluctuate from year to year depending on market conditions. In some years, this figure may even decline. AFIA's members often develop budgets years in advance in an attempt to remain profitable in a low-margin industry. The proposition of yearly fluctuations in the overtime exemption salary threshold injects more uncertainty into AFIA members' business plans.

Absorbing an increase in the overtime exemption threshold, as provided in the Proposed Rule, is enough of a shock to the system of AFIA members. Yearly fluctuations in this threshold will cause further uncertainty and economic harm to AFIA's members. During the 77-year history of the Fair Labor Standards Act, the overtime exemption has never been tied to a particular threshold. AFIA's members do not believe that such a measure has now become necessary after nearly eight decades.

Thank you for your consideration of these comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard Sellers". The signature is fluid and cursive, with a prominent initial "R" and a long, sweeping tail.

Richard Sellers
Senior Vice-President, Legislative and Regulatory Affairs