

LEGAL UPDATE

DOL Proposes New Effective Date for Independent Contractor Rule

On Friday, Feb. 5, 2021, the U.S. Department of Labor's (DOL) Wage and Hour Division (WHD) proposed delaying the effective date for the Independent Contractor final rule from **Mar. 8, 2021** to **May 7, 2021**.

The WHD is proposing the delay to allow sufficient time for the agency to review the final rule as required by the memorandum President Biden issued on Jan. 20, freezing regulatory changes adopted late into the previous administration.

The Independent Contractor Final Rule

The final rule issued on Jan. 6, 2021, clarifies how employers can determine whether a worker is an employee or an independent contractor. Adequate worker classification is necessary to determine whether workers are protected by employment laws or entitled to employment benefits.

The final rule reaffirms that employers must consider whether, as a matter of economic reality, there is financial dependency in the employment relationship with their workers.

Impact on Employers

Until the final rule becomes effective, employers are not required to use the DOL's Economic Realities Test as required by the final rule. However, employers should become familiar with this final rule and consider how they would implement any necessary changes into their worker classification practices by May 7, 2021.

Employers should also continue to monitor the DOL website for updates on whether the Biden administration chooses to accept, amend or reject the final rule before the rule's effective date.

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Important Dates

Jan. 6, 2021

Publication date of independent contractor final rule.

Jan. 20, 2021

President Biden issued regulatory freeze on recently adopted laws.

Mar. 8, 2021

Original effective date for independent contractor final rule.

May 7, 2021

Newly proposed date for independent contractor final rule.

Employers should monitor for updates on whether the DOL accepts, amends or rejects the final rule.



JP Griffin Group