

Department of Labor Seeks to Rescind the Trump Administration's Joint-Employer Rule

By Amanda M. Connelly

The Department of Labor (DOL) has issued a proposed rule to rescind a Trump administration joint-employer rule. The joint-employer rule attempted to treat companies, like McDonald's and FedEx, as joint employers of franchise and contract workers only if the companies exercised control over aspects of the employment, such as setting the employees' pay or control over hiring and firing processes.

The joint-employer rule went into effect in 2020 but was quickly faced with backlash. Much of the rule was vacated by a federal district court judge in New York in September 2020, and the DOL filed an appeal to that ruling with the U.S. Court of Appeals for the Second Circuit in November.

The DOL currently is seeking public comment on whether to repeal the joint-employer rule, as the Biden administration cites to the district court's 2020 ruling that found the rule to be "unduly narrow." The Biden administration likely desires to return to the Obama administration enforcement approach where companies more broadly were held accountable for franchisees and subcontractors when relying on "economic realities," such as the work being performed and the extent of the companies' influence over the franchisees' work environments. Public comment opened on Friday, March 12, and will continue for 30 days.

Roetzel will continue to monitor developments in this area. For more information and insight on this matter, please contact one of the listed Roetzel attorneys.

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