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LABOR DEPARTMENT MOVES TO GET OVERTIME RULE OUT OF COURTS SO IT CAN REVISE IT

Files notice to appeal a decision on Obama-era rule that would have made more workers eligible

By Eric Morath and Josh Mitchell
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WASHINGTON – The Trump administration on Monday appealed a federal judge’s ruling that struck down an Obama-era overtime-pay rule, a move designed to preserve the Labor Department’s authority to reshape the rule.

By filing the appeal, the department **seeks to maintain** Secretary Alexander Acosta’s ability to establish overtime regulations, a Labor Department official said Friday. The appeal shouldn’t be viewed as the Trump administration endorsing the threshold set in regulations issued last year, according to the official.

The department released a brief statement Monday announcing it had appealed the ruling of a federal judge in Texas. The department added it planned to ask the Fifth Circuit Court of Appeals in Louisiana to stay the case to allow the department time to rewrite the regulations, which would make more workers eligible for extra pay.

In late August, U.S. District Judge Amos Mazzant found invalid a rule that would have extended eligibility for time-and-a-half overtime pay to millions more Americans. Under the regulation, which hadn’t yet gone into effect, nearly all workers earning less than \$47,476 a year would have been eligible for extra pay when they worked more than 40 hours in a week.

The judge found the Obama-era rule invalid because it rendered irrelevant a test established by Congress that alternatively determined overtime eligibility based on a worker’s duties. Judge Mazzant temporarily blocked the rule from going into effect on Dec. 1, 2016, after states and business groups sued the Labor Department.

The August ruling made that stop permanent, and raised questions over the department’s authority to establish a new salary threshold to determine eligibility for overtime pay. Eligible workers receive overtime pay, or one-and-a-half times their regular wage, when they work more than 40 hours in a week.

Under the Trump administration, the Labor Department has already begun the process of writing a new overtime rule, which was last updated during the George W. Bush administration. The department has sought public comment on the rule, the first step in rewriting the regulation.

Mr. Acosta has indicated he would support an increase in the salary threshold under which most workers are eligible for overtime pay, which has been \$23,660 since 2004. But it is expected any new rule would seek to set a lower threshold than the Obama administration sought.

In testimony to Congress in March, Mr. Acosta noted if the 2004 level was adjusted for inflation, it would be about \$33,000.

The department, in seeking public comment in July, said it was seeking input on whether the \$47,476-a-year salary level **would adversely affect** low-wage regions and industries by raising labor costs.