

**Comments by the American Society for Biochemistry and Molecular Biology to the
U.S. Department of Labor
Proposed Rule on Defining and Delimiting the Exemptions for Executive, Administrative, Professional,
Outside Sales and Computer Employees
Regulatory Information Number 1235-AA11
September 4, 2015**

The American Society for Biochemistry and Molecular Biology is supportive of President Obama's directive to increase the threshold for overtime pay for salaried employees, but we are concerned about how the new rule will affect labs that employ postdoctoral researchers, or postdocs. Postdocs are scientists that have received a doctoral degree and are engaged in a temporary, mentored research position to receive specialized training in specific scientific disciplines (1). The nearly 90,000 postdocs in the United States are employed broadly – in academia, government and industry and across the full spectrum of scientific endeavors in the U.S. Postdocs are some of our most innovative and productive scientists, they are our future scientific leaders and their work is integral to the many groundbreaking discoveries that improve human health.

All but the most senior postdocs would be eligible to receive overtime pay under the Administration's proposed rule change. The ASBMB has been a vocal proponent for increasing postdoc pay, and changing the overtime rule would achieve this goal (2). However, we are concerned that immediate and full implementation of this rule change will ultimately hinder scientists' abilities to conduct important research. Furthermore, the negative effects of the rule change may outweigh the positive aspects of rewarding postdocs for their contributions to the American research enterprise.

While the ASBMB is concerned about implementation of this rule change, we recognize that excluding postdocs from the rule is not warranted. Ideally, the proposed rule change will be implemented over a three-year period to give research labs, universities and federal agencies time to either institute an overtime pay system or to raise postdoc pay above the level covered by this rule. Should this time frame not be compatible with the Administration's goals, **we recommend at least a one-year delay of the overtime rule as it applies to postdocs until Oct. 1, 2016 so that research labs, universities and federal agencies have time to minimize some of the negative effects of the rule change.**

The rule change concerns the ASBMB for two specific reasons. First, the rule change will create widespread uncertainty and disruptions in budgeting for scientific research. Universities and federal agencies typically set postdoc salaries at levels recommended by the National Institutes of Health (3). Current NIH-recommended postdoc salaries are 20 percent lower than the salary threshold of the proposed rule change, and implementing the change would dramatically increase postdoc pay. Without a corresponding increase in grant funds, this could cause a significant reduction in money spent on experimentation. Similarly, postdocs work 53 hours per week, on average, and sending them home after 40 hours to ensure consistent budgeting would substantially curtail postdocs' productivity (4). Restricting experimentation or postdoc hours would reduce the return on investment for federal research funds and neither outcome is in the taxpayer's interest.

Second, the rule change will increase the administrative burden on scientists. Scientists spend nearly 40 percent of their time ensuring their research is in compliance with federal and state regulations (5).

Compelling faculty members and postdocs to keep track of and register hours worked will only increase this burden. This effect would be felt broadly as postdocs are often considered trainees, and few if any institutions have systems in place to track postdoc hours. The ASBMB recognizes that tracking hours is not a problem unique to scientists or university administrators, however, the vast majority of scientists receive federal funding for their work. Increasing the administrative burden on scientists will waste taxpayer money as it detracts from the time scientists have to conduct their research.

To reflect better postdocs' training and contributions to the American research enterprise, the ASBMB and many prominent scientists and scientific organizations support increasing postdoc compensation (2). The ASBMB understands our concerns as presented here are not grounds for excluding postdocs from the overtime rule. Rather, we recommend at least a one-year delay, and ideally a three-year delay, in implementing the rule change as it applies to postdocs. This delay will allow research labs, universities and federal agencies to implement the systems necessary to track postdoc overtime or to reallocate grant funds to support increased postdoc salaries that more properly reflect the spirit of this rule change and commensurate with the high quality and high-value research postdocs contribute to the American research enterprise.

The ASBMB is a nonprofit scientific and educational organization with more than 12,000 members worldwide, including several thousand postdocs. Most members teach and conduct research at colleges and universities. Others conduct research in various government laboratories, at nonprofit research institutions and in industry. The Society's student members attend undergraduate or graduate institutions.

References

- (1) National Postdoctoral Association. http://www.nationalpostdoc.org/?page=What_is_a_postdoc. (2015).
- (2) Pickett, C.L. *et al. Proc Natl Acad Sci*. doi: 10.1073/pnas.1509901112 (2015).
- (3) National Institutes of Health. <http://grants.nih.gov/grants/guide/notice-files/NOT-OD-15-048.html>. (2014).
- (4) Ferguson, K. *et al. National Postdoctoral Association institutional policy report 2014: Supporting and developing postdoctoral scholars*. (2014).
- (5) Schneider, S.L. *et al. "2012 Faculty Workload Survey Research Report"* (2014).