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Colorado River tour operators sue feds over hourly wage scheme

The plaintiffs claim the Biden administration's wage order is "fundamentally incompatible with the way that the guiding industry operates."

AMANDA PAMPURO / December 7, 2021



Rafters paddle on the Arkansas River in Colorado. (Redmarkviolinist/Wikimedia)

(CN) — Going to the great outdoors used to mean getting away from it all. In a [lawsuit](#) against the U.S. Department of Labor however, a group of Colorado river guides claim the federal government has arbitrarily imposed a \$15 minimum wage on the outdoor industry, rendering extended tours through public wilderness less attainable.

“President Biden, acting through the U.S. Department of Labor, has now ordered them to be lumped in with federal contractors, and adopt a wage model that is fundamentally incompatible with the way that the guiding industry operates,” explains the 20-page federal lawsuit.

Duke Bradford, owner of Arkansas Valley Adventure and the Colorado River Outfitters Association, which represents 150 independent operators, sued the U.S. Department of Labor alongside the Wage & Hour Division, President Joe Biden and Secretary of Labor Martin Walsh.

According to the lawsuit, the three plaintiffs are among 40,000 businesses providing recreational services or concessions on federal lands that will be impacted by the new wage rules.

The rules set to take effect Jan. 30 [require](#) covered federal contractors and holders of U.S. Forest Service special-use permits to pay workers a minimum

wage of \$15 and \$22.50 for overtime.

Outdoor tour companies like Arkansas Valley Adventure need federal permits to operate. Bradford takes visitors through the White River National Forest, rafting up the Upper Colorado and Eagle rivers, and running ATVs through the Wolford Mountain.

Colorado minimum wage is currently \$12.32 for non-tipped workers and \$9.30 for tipped workers.

In 2014, the Obama administration made guides and outfitters subject to federal minimum wage requirements as a broad rule implemented a \$10.10 minimum wage for federal contractors. In 2018, President Donald Trump carved out an exemption for seasonal recreation services including “river running, hunting, fishing, horseback riding, camping, mountaineering activities, recreational ski services, and youth camps.”

During this period, the plaintiffs say Bradford was able to save costs and hire more guides.

Outdoor guides typically exceed 40-hour work weeks while running multiday trips, the plaintiffs say, and therefore time-and-a-half overtime wages are not feasible for the companies. Instead of paying hourly, the plaintiffs pay base rates that fall below \$15 an hour.

Under the new rules, outfitting companies would have to cut hours to avoid overtime, limiting access to multiday trips and guides according to the plaintiffs.

“Spending days in the wilderness, away from phones and the internet, can fundamentally reorient our priorities and our interaction with the world around us,” the plaintiffs lament in their complaint. “Outfitters and guides make sure that ordinary Americans, including those of modest means, can explore the millions of acres of rugged federal lands set aside for everyone.”

The plaintiffs claim applying the minimum wages rules to outdoor guides is arbitrary and capricious under the Administrative Procedure Act.

Represented by Pacific Legal Foundation attorney [Caleb Kruckenberg](#), the plaintiffs ask the court to prohibit the federal government from enforcing the wage rules and to award attorneys fees.

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