

Proposed Rule Change to Minimum Salary Requirements Would Expand Overtime Pay to Millions of Workers not Currently Eligible

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The U.S. Department of Labor (DOL) recently released a proposed regulation that would raise the minimum salary threshold for exemption from overtime pay for certain exempt employees who work in administrative, professional and executive jobs, the so-called “white-collar exemptions.”

Under the Fair Labor Standards Act, almost all hourly workers in the United States are entitled to overtime pay, at least time-and-a-half their regular rate, for any hours worked over 40 in a workweek. However, employees who satisfy the “white-collar exemptions” are exempt from the overtime requirement unless they earn below a certain level.

Under current regulations, employees in these categories are not eligible for overtime if they earn more than \$35,568 per year, or not less than \$684 per week. The proposed rule would raise that threshold to \$55,068 per year, or not less than \$1,059 per week. Additionally, the rule would adopt an automatic increase to the salary threshold every three years.

According to DOL officials, the proposed new rule would expand overtime eligibility to 27% of salaried workers because their salary would fall under the new threshold. The proposed rule would largely impact sectors where managerial employees fall under the new threshold, including hospitality, retail, food and manufacturing. The DOL estimates that raising the salary threshold would result in overtime eligibility for an additional 3.6 million employees, including 300,000 manufacturing workers, 300,000 retail workers, 180,000 hospitality workers and 600,000 healthcare and social services workers.

Proponents of the proposed rule argue that the salary threshold has remained too low for too long, with the last two increases in 2004 and 2019. Meanwhile, critics highlight that setting the threshold too high will negatively impact smaller businesses that already face staffing challenges. Others argue the timing could be disruptive as the economy is still recovering from the impacts of COVID-19, such as diminished labor participation and recovering supply chains.

The proposed rule is currently open for public comment until Oct. 29. DOL officials will consider all comments received before publishing a final rule. In the interim, employers should evaluate the impact this proposed rule would have on their businesses and plan accordingly.

PROPOSED RULE CHANGE TO MINIMUM SALARY REQUIREMENTS WOULD EXPAND OVERTIME PAY TO MILLIONS OF WORKERS NOT CURRENTLY ELIGIBLE Cont.

Attorneys in Plunkett Cooney's Labor & Employment Practice Group are available to counsel employers and assist in implementation of necessary changes if this proposed rule is adopted.