

New Overtime Rules in 2024? Employers Eagerly Await Final Rule From DOL

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In the fall of 2023, the United States Department of Labor issued a notice of proposed rulemaking, wherein it proposed significant changes to overtime regulations under the Fair Labor Standards Act (FLSA)—the federal law governing minimum wage and overtime rights.

The public comment period for the proposed changes concluded on November 7, 2023. Most expect the DOL to publish a final version of the rule in the near future—most likely sometime in early 2024.

Employers should be on alert about the finalization of this proposed rule, as it stands to significantly change the landscape of employees entitled to overtime pay. For example, the proposed rule:

1. Increases the minimum weekly salary requirement for employees to qualify as “exempt” from overtime pay (*i.e.*, not entitled to overtime pay) from \$684 per week to \$1,059 per week;
2. Increases the minimum annual salary requirement for employees to qualify for the exemption for “highly compensated” employees from \$107,432 to \$143,988; and
3. Effectuates an “automatic updating mechanism” whereby increases to earnings thresholds for FLSA exemptions take place every three (3) years.

In short, these changes would cause many employees *not* currently entitled to overtime premium pay to become entitled to such pay. This could mean, for example, that some employees making north of \$143,000 could suddenly become entitled to overtime premium pay (*i.e.*, 1.5x their “regular rate” of pay) for any hours worked in any workweek over 40 hours. It seems almost certain that the overtime liabilities of employers would grow significantly under this proposed rule.

Although a final rule is expected in early 2024, it will undoubtedly face legal challenge, just as similar rulemaking was challenged (successfully) under the Obama administration. So stay tuned for further updates and developments.

