

BREAKING NEWS: At Long Last, DOL Issues Final Rule on OT Standards

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The U.S. Department of Labor finally settled on the salary thresholds regarding overtime pay under the Fair Labor Standards Act.

\$35,568 (\$684 per week): the annual standard salary threshold for executive, administrative, and professional employees to be exempt from the overtime pay requirements under the FLSA, up from the currently enforced standard annual salary of \$23,360 (\$455 per week).

\$107,432: the total annual compensation level to be considered a "highly compensated employee" (HCE) exempt from the FLSA's overtime requirement. The figure is up slightly from the currently enforced level of \$100,000, but much less than the annual HCE salary level of \$147,414 in the department's [original proposed final rule in March](#). However, note that Pennsylvania does not recognize this specific HCE exemption under its overtime regulations, meaning that employees must meet the salary and duties test for one of the other exempt category of employees to be overtime exempt.

The changes take effect on January 1, 2020. The current federal overtime standards have been in place since 2004.

The department estimates that about 1.2 million additional U.S. workers will now be entitled to overtime pay because of the raise in the standard salary level. A little more than 100,000 additional workers will be entitled to overtime pay because of the hike in the highly compensated employee compensation level.

"For the first time in over 15 years, America's workers will have an update to overtime regulations that will put overtime pay into the pockets of more than a million working Americans," Patrick Pizzella, the acting labor secretary, said in a news release. "This rule brings a commonsense approach that offers consistency and certainty for employers as well as clarity and prosperity for American workers."

The final rule also allows for employers to use "nondiscretionary bonuses and incentive payments (including commissions) that are paid at least annually to satisfy up to 10 percent of the standard salary level." The condition is a recognition of evolving pay practices, according to the department's news release.

The final rule comes out of the department's Wage and Hour Division, which enforces overtime pay.

"The Wage and Hour Division now turns to help employers comply and ensure that workers will be receiving their overtime pay," Wage and Hour Division Administrator Cheryl Stanton said in a news release.

While the new annual standard salary threshold represents more than a 52 percent jump from the current rate, it is still a far cry from what the [Obama administration had originally proposed at \\$47,476](#). The large jump in the standard salary threshold served as a contributing factor to a federal lawsuit that [eventually struck down the](#)

[final rule](#), sending the department back to the drawing board to construct a new proposal.

With the exempt salary threshold finally determined, companies can now take steps toward implementation in advance of the January 1 deadline:

- Have exempt employees whose salaries currently fall between \$23,660 and \$35,568/year keep a record of their hours worked including off-hours time on electronic devices; upgrade time keeping systems where needed;
- Review job descriptions and exempt vs. non-exempt duties;
- Analyze the impact of bumping pay levels for exempt employees to match the salary threshold, hiring more employees to spread out what would otherwise be overtime hours for newly non-exempt employees, and/or reassigning job duties to funnel exempt tasks up the ranks to exempt employees.

If you have any questions about the final rule on overtime salary thresholds and how it can affect your business, please [contact me](#) or anyone in the [Barley Snyder Employment Group](#).

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