

## DOL Signals Change May Be in Store for Overtime Rule

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Two moves by the U.S. Department of Labor at the end of June signal changes may be in store for the overtime regulations that employers have been in limbo over since November waiting for the Trump administration to make a decision.

Department Secretary Alexander Acosta first sent a "request for information" on the overtime rule to the White House's Office of Management and Budget for its review and approval. Such a request is typically made when the department intends to seek public input on new rules or changes to existing rules.

Then the department filed a long-awaited brief in the overtime rule injunction litigation in the Fifth Circuit Court of Appeals in Texas. The department stated it would not support the specific salary threshold of \$913 per week set by the Obama administration. Instead, the department "intends to undertake further rulemaking to determine what the salary level should be" - provided the court upholds the department's statutory authority to set a salary level in the first place.

This approach is consistent with then-nominee Acosta's statements on the fate of the overtime rule during his Senate confirmation hearings. "If you were to apply a straight inflation adjustment, I believe the figure if it were to be updated would be somewhere around \$33,000, give or take," Acosta said at the time.

These developments should not change the steps companies have taken - or not taken - since the overtime rule was enjoined back in November in the case [Barley Snyder](#) attorneys have been tracking for months. The department's position on the overtime rule, however, likely will force the court to decide whether the department has the authority to set a salary threshold, and what will become of the Obama administration's overtime rule.

The [Employment attorneys at Barley Snyder](#) will continue to issue updates as further direction is provided by the courts or Congress.

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