



STOKES WAGNER

ATTORNEYS AT LAW

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DOL Raises FLSA Overtime Exemption for White Collar Workers

More employees will now be considered non-exempt, as the U.S. Department of Labor raised the minimum salary threshold for workers to qualify for the Fair Labor Standards Act's "white collar" exemption. In replacing an Obama administration rule, the new proposal would raise the salary threshold requirement from \$23,660 to \$35,308 per year. As a result, more employees will be subject to compensation for any time exceeding 40 hours in the workweek.

The replacement rule updates the FLSA's overtime exemptions for executive, administrative and professional workers, making more than a million workers eligible for overtime pay. This also replaces a currently enjoined rule from 2016 that doubled the minimum salary threshold from \$23,660 to over \$47,000. It also created an index for future increases to the threshold.

The proposed rule will be subject to a 60-day public comment period after publication in the Federal Register. The DOL estimates it will then take effect in January 2020. The agency is asking for public comment as to whether the threshold should be subject to periodic automatic increases, like the Obama administration's proposed rule.

What this means for employers: The DOL estimates that, under the new rule, more than a million workers would move from exempt to non-exempt status, qualifying them for overtime pay. Under the rule, in order to be exempt from overtime compensation, employees must now be paid at least \$35,308 per year, as opposed to the previous requirement of only \$23,660. Employers should thus be prepared to adjust their payroll accordingly if the proposal survives any legal challenge.

Questions? Contact Stokes Wagner.