

Overtime threshold rising to \$35,568 on Jan. 1

The white-collar overtime threshold will increase to \$35,568 on Jan. 1, 2020, following approval of a final rule the Department of Labor says will make 1.2 million more Americans eligible for overtime pay.

The new threshold represents a 50% increase over the current threshold of \$23,660, which was established in 2004.

The new threshold means exempt administrative, executive and professional employees will be eligible for overtime pay as long as they don't earn more than \$35,568 per year. That equals weekly pay of \$684. White-collar employees who earn that amount or less will be eligible for overtime pay when they work more than 40 hours in a workweek.

The DOL announced the new threshold on Sept. 24. In addition to raising the overtime salary threshold, the final rule:

- Allows employers to use nondiscretionary bonuses and incentive payments (including commissions) paid at least annually to satisfy up to 10% of the standard salary threshold
- Raises the total annual compensation requirement for "highly compensated employees" from the currently enforced level of \$100,000 per year to \$107,432 per year.

A DOL statement said an additional 101,800 workers should be entitled to overtime pay as a result of the increase to the highly compensated employees salary 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," said Acting Secretary of Labor Patrick Pizzella. "This rule brings a commonsense approach that offers consistency and certainty for employers as well as clarity and prosperity for American workers."

The DOL statement said the department "intends to update the standard salary and HCEs total annual compensation levels more regularly in the future through notice-and-comment rulemaking."

Drafted in March and fast-tracked through the rulemaking process, the overtime rule attracted more than 116,000 public comments. According to the DOL, nearly everyone who submitted comments agreed that the salary threshold increase was long overdue.

The new overtime salary threshold is substantially lower than a proposal that almost became official in 2016. The Obama administration tried to raise the salary threshold to \$47,476 per year, but that met with furious opposition from business interests and conservative state attorneys general, who sued to block implementation of the rule. A federal court in Texas invalidated the final rule—three years in the making—just days shy of its effective date on Dec. 1, 2016.

Online resources Find official information on the new salary threshold at www.dol.gov/whd/overtime2019/.

Also on the web are the following resources:

The final rule: www.dol.gov/whd/overtime2019/overtime_FR.pdf

A DOL fact sheet: www.dol.gov/whd/overtime2019/overtime_FS.htm

Frequently asked questions: www.dol.gov/whd/overtime2019/overtime_FAQ.htm

Compliance guide for small employers: www.dol.gov/whd/overtime2019/overtime_complianceguide.pdf.