

August 31, 2023

New DOL Proposal Would Expand Overtime Pay to Millions of Workers



David Michael

Human Resources & Employment

The U.S. Department of Labor (DOL) has announced a new proposed rule that – if it becomes final – would extend overtime pay to over 3 million American workers.

Annual Salary Threshold for EAP Exemptions Increases to \$55,068

The proposed rule would adjust the minimum salary level for executive, administrative and professional (EAP) workers that are exempt from overtime pay under the Fair Labor Standards Act (FLSA). EAP workers are exempt from overtime pay if they satisfy the following criteria (known as the “job duties test”):

1. They are paid a minimum specified amount of salary,
2. The employee is paid a predetermined and fixed salary and
3. The employee’s job duties primarily involve executive, administrative or professional duties.

Under the current standard, employees making over \$35,568 annually satisfy the minimum salary requirement to qualify for the EAP overtime exemption.

The proposed rule would increase that minimum salary threshold for EAP workers to \$55,068 annually (\$1,059/week). The proposed rule alters the minimum required salary, but it does not amend the job duties test.

Annual Salary Threshold for Highly Compensated Employees Increases to \$143,988

Additionally, the proposed rule would increase the minimum salary threshold required for certain highly compensated employees (HCEs) to be exempt from overtime pay. Like the overtime exemption for EAP workers, an employee must be paid a minimum salary threshold to qualify for the HCE overtime exemption.

Under the current standard, HCEs making \$107,432 or more are exempt from overtime pay. The proposed rule would increase the salary level threshold for HCEs to \$143,988 annually.

The DOL has published [FAQs](#) on its website regarding the proposed rule. Interested parties may submit comments to the proposed rule 60 days after it is published in the Federal Register.

If you have any questions about how the proposed rule will impact your employment practices, please contact a member of Gould & Ratner’s [Human Resources and Employment Law Practice](#).