

United States Department of Labor

Wage and Hour Division

Wage and Hour Division (WHD)

Notice of Proposed Rulemaking: Overtime Update

On March 7, 2019 the Department of Labor announced a proposed rule that would make more than a million more American workers eligible for overtime.

Under currently enforced law, employees with a salary below \$455 per week (\$23,660 annually) must be paid overtime if they work more than 40 hours per week. Workers making at least this salary level may be eligible for overtime based on their job duties. This salary level was set in 2004.

This proposal would boost the proposed standard salary level to \$679 per week (equivalent to \$35,308 per year). Above this salary level, eligibility for overtime varies based on job duties.

In developing the proposal, the Department received extensive public input from six in-person listening sessions held around the nation and more than 200,000 comments that were received as part of a 2017 Request for Information (RFI). Commenters who participated in response to the RFI or who participated at a listening session overwhelmingly agreed that the currently enforced salary and compensation levels need to be updated.

The NPRM includes:

- The proposal increases the minimum salary required for an employee to qualify for exemption from the currently-enforced level of \$455 to \$679 per week (equivalent to \$35,308 per year).
- The proposal increases the total annual compensation requirement for “highly compensated employees” (HCE) from the currently-enforced level of \$100,000 to \$147,414 per year.
- A commitment to periodic review to update the salary threshold. An update would continue to require notice-and-comment rulemaking.
- Allowing employers to use nondiscretionary bonuses and incentive payments (including commissions) that are paid annually or more frequently to satisfy up to 10 percent of the standard salary level.
- No changes in overtime protections for:
 - Police Officers
 - Fire Fighters
 - Paramedics
 - Nurses
 - Laborers including: non-management production-line employees

- Non-management employees in maintenance, construction and similar occupations such as carpenters, electricians, mechanics, plumbers, iron workers, craftsmen, operating engineers, longshoremen, and other construction workers
- No changes to the job duties test.
- No automatic adjustments to the salary threshold.

The Department will consider all timely comments in developing a final rule.

Additional Information

- [Notice of Proposed Rulemaking: Defining and Delimiting the Exemptions for Executive, Administrative, Professional, Outside Sales and Computer Employees](#)
- Press Release [03/22/19]: [U.S. Department Of Labor's Overtime Proposal Open For Public Comment](#)
- Press Release [03/07/19]: [U.S. Department of Labor Releases Overtime Update Proposal](#)
- [Fact Sheet: Notice of Proposed Rulemaking to Update the Regulations Defining and Delimiting the Exemptions for Executive, Administrative, and Professional Employees](#)
- [Frequently Asked Questions About the Proposed Rule](#)
- [Overtime Pay Website](#)