



Overtime Security for the 21st Century Workforce

Concerns Raised in Public Comments:

1. The \$22,100 annual (\$425/week) minimum salary level for exemption is too low.
2. Middle-income workers will be harmed because workers earning more than \$65,000 per year might not be entitled to overtime pay.
3. Too many workers would be denied overtime protections.
4. “Blue collar” workers will lose their right to overtime.
5. Police, fire fighters, paramedics, emergency medical technicians (EMTs) and other first responders will lose their right to overtime.
6. Nurses will lose their right to overtime.
7. Veterans will lose their right to overtime.
8. Technicians, cooks and other skilled employees who do not have four-year college degrees will lose their right to overtime.
9. Every worker who holds a “position of responsibility” or has a “high level of skill or training” will lose their right to overtime.
10. Low-level employees who do not have discretion in their jobs will qualify for exemption and lose their right to overtime.

Change in the Final Regulation:

- ➔ The final rule requires a minimum salary level of \$23,660 (\$455/week) – a \$300/week increase over the current minimum of \$8,060 (\$155/week).
- ➔ To be considered exempt from overtime, “highly compensated” employees in the final rule must earn at least \$100,000 per year, *and* “customarily and regularly” perform exempt duties.
- ➔ The new highly compensated test for employees who earn \$100,000 per year *and* perform exempt duties *could* affect up to 107,000 higher-income workers. However, 6.7 million workers earning less than \$23,660 will have their overtime protections guaranteed. For workers in the middle, the final rule is more protective, or at least as protective, of their overtime rights than the old rule.
- ➔ New § 541.3(a) clearly states that “blue collar” workers are entitled to overtime pay.
- ➔ New § 541.3(b) states that first responders such as police, fire fighters, paramedics and EMTs are entitled to overtime pay.
- ➔ The final § 541.301(e)(2) states that licensed practical nurses and other similar health care employees do not qualify as exempt professionals. The final rule retains the previous law regarding registered nurses.
- ➔ The reference to “training in the armed forces” has been removed from final § 541.301(d) to clarify that veteran status does not affect overtime pay.
- ➔ The final rule clarifies that there is no change to the educational requirements for the professional exemption. These workers will keep their existing overtime protections.
- ➔ The “position of responsibility” and “high level of skill or training” proposed language has been removed from the administrative duties test.
- ➔ The final rule retains the discretion standards from the previous administrative and professional duties test.

To learn more about the U.S. Department of Labor’s Final Regulations on the FLSA “White Collar” Exemptions visit www.dol.gov/fairpay

