

BURR ALERT

Changes to Federal Overtime Exemption Rules Coming in July 2016: What Your Workplace Must Know and Do to Prepare

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The U.S. Department of Labor ("DOL") recently announced its long awaited changes to the federal overtime regulations will be published in **July 2016**. The revised regulations, which were first discussed in March 2014, are expected to make dramatic changes to common white collar exemptions from federal overtime requirements, including those applicable to executive, administrative, and professional employees. Millions of employees who are not currently eligible for overtime under the current regulations will become eligible under the DOL's proposed rule changes. Specifically, the DOL proposes to change the overtime exemptions by:

- 1) Increasing the minimum salary level required for exemption for salaried workers to \$970 per week or \$50,440 annually (an increase of \$455 per week and \$23,660 annually);
- 2) Increasing the total annual compensation for highly compensated employees from \$100,000 to \$122,148; and
- 3) Establishing a system to automatically update minimum salary and compensation thresholds moving forward consistent with inflation and other economic factors.

In addition to the above changes, in its proposed rule the DOL requested comments regarding potential changes to the "duties" tests applicable to the exemptions. The DOL, which last updated the federal overtime regulations in 2004, received nearly 300,000 comments on the proposed changes during the 60-day comment period from July-September 2015.

The regulatory changes will be made amidst increasing national attention from the public, media, and plaintiffs' attorneys concerning minimum wage and worker compensation. In addition, studies show that the plaintiffs' bar continues to file federal wage-hour actions at alarmingly high rates. In fact, 8,954 new wage-hour cases were filed in federal courts in 2015—an increase of 450% since 2000. Those numbers are almost certain to increase once the new regulations take effect.

Although the final text of the new regulations is not yet known, prudent employers should begin preparing for the changes now. Employers should analyze and evaluate their exempt employees' duties and job responsibilities, determine which employees will likely be affected by the regulatory changes, and estimate the increased payroll costs from the proposed rule changes. Furthermore, employers should consider an attorney-client privileged audit of their current job positions and classifications. Though there will not exist any cookie-cutter approach to ensuring compliance with the new regulations for employers, options employers may consider include the following:

- 1) Increasing salaries to meet the new minimum that will apply to most of the “white-collar” exemptions (this will likely be a more reasonable option for employees currently making an annual salary of \$40,000+);
- 2) Converting impacted employees to a nonexempt, hourly status, and paying them for overtime hours (to minimize the financial impact of this option, policies may be implemented that require management approval before employees work overtime hours); and
- 3) Hiring additional employees so that existing employees do not have to work overtime hours to meet business needs.

Employers will have 60 days to comply with new regulations after they are published. We will continue to monitor this area of the law and any changes or updates that follow. Additional information and options for employers are discussed in the following [Burr Alert](#).

If you would like more information, please contact:

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