

PUBLICATION

President Obama Signs Memorandum To Expand Overtime Protection

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Today, March 13, 2014, President Obama signed a Presidential Memorandum directing the Department of Labor to create new regulations making more workers eligible for overtime pay under the Fair Labor Standards Act's (FLSA) overtime requirements. The new regulations are expected potentially to make millions of additional workers eligible for overtime pay. The FLSA generally requires employers to pay an overtime rate of one and one-half times an employee's regular rate of pay to employees who work more than 40 hours in a workweek unless the employee is exempt from the overtime requirements. The primary exemptions from the overtime requirements are for those employees who are paid on a salary basis and are classified based on their job duties as either executive, administrative or professional employees, outside salespersons or work in certain computer-related occupations. The individuals who traditionally occupy these positions, often referred to as "white collar" jobs, are typically paid on a salary basis and are not eligible for overtime pay under the existing laws.

The Presidential Memorandum declared that the existing regulations "particularly for executives, administrative, and professional employees" are outdated. According to the White House, only 12 percent of salary workers fall below the threshold (\$455.00 per week) that would guarantee them overtime and minimum wage protections. The White House believes that millions of salary workers have been left out of the protections of overtime and sometimes even minimum wage, but are expected to work 50 or 60 hours a week while making barely enough to keep a family out of poverty. The Presidential Memorandum instructs the Secretary of Labor to revise the existing regulation to:

- Update existing protections in keeping with the intention of the Fair Labor Standards Act.
- Address the changing nature of the American workplace.
- Simplify the overtime rules and make them easier for both workers and businesses to understand and apply.

The new regulations are expected to reduce the number of individuals who are considered exempt from overtime under the executive, administrative and professional exemptions, thereby increasing the number of workers who must be paid overtime for hours worked in excess of 40 in a workweek. Specifically, commentators believe the new regulations will be aimed at increasing the salary threshold to be exempt from overtime from its current \$455.00 per week and changing the definition of the type of duties necessary to qualify as a supervisor for the executive exemption. The President did not specify what the new rules or salary threshold will be, leaving that to the Department of Labor (DOL).

In the Fact Sheet provided by the White House, the positions of convenience store manager, fast food shift supervisor and office worker were identified as those needing to be re-evaluated. No new rules will take effect immediately, and any new regulations will go through the DOL's rule-making procedures, which may take months before any new regulations are final. If and when that happens, employers can likely expect to pay overtime to more of their workers.

The full text of the President's Memorandum can be found [here](#).

