

# PUBLICATION

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## New Salary Threshold Is One Step Closer to Reality

March 16, 2016

Buckle your seat belts: **the new pay regulations may be coming out as early as this April or May.** Yesterday, the Department of Labor (DOL) forwarded its proposed final overtime regulations to the White House's Office of Management and Budget (OMB) – that's the final step before the rule becomes official. Typically, the OMB takes one to two months to review a rule, however, there is wide speculation that the OMB's review of this rule will be expedited.

This proposed overtime rule was announced in June 2015 and would raise the minimum salary threshold required to qualify for the Fair Labor Standards Act's "white collar" exemption from \$23,660 to approximately \$50,440 per year. The new regulations also mandate that the \$50,440 salary be tied to a fixed percentage of wages or to the Consumer Price Index (CPI) to guard against inflation. This means the salary threshold could increase along with the CPI. The DOL has argued for this automatic increase by pointing out that the last time a change was made, it was 2004 – so the salary threshold has not kept up with the times. It is estimated that under the new regulations, an additional five million formerly exempt employees will now be legally entitled to overtime if they work more than 40 hours in a workweek. Read the [Top 10 Questions Employers Have About the Newly Proposed Overtime Regulations](#).

This new regulation also raises the highly compensated executive salary threshold to \$122,448. It has been \$100,000.

### What's the Rush?

The DOL is racing against the clock to avoid a challenge under Congressional Review Act (CRA). The CRA gives Congress 60 legislative days to "disapprove" new regulations issued by federal agencies. In a joint resolution of disapproval, Congress could overrule the regulation by a simple majority vote. The President, however, has the opportunity to veto the resolution of disapproval and then Congress would have to override the veto by a supermajority or two-thirds vote. There is a unique "carryover" provision of the CRA that is complicated but requires if the new rule is not submitted to Congress by approximately May 16, 2016, it will be subject to renewed review period in 2017 by a new President and Congress.

### Learn More

[Watch our recent webinar](#) where we discuss the DOL's regulation and this significant update. We take a closer look at the current state of the overtime exemption; the proposed rules and timeline for implementation; how businesses should start preparing to comply with the new regulations; and the consequences of misclassifying employees.