

# LEGISLATIVE UPDATES NEWSLETTER



## UPCOMING 2024 REGULAR LEGISLATIVE SESSION DATES

- **August 4, 2023** Deadline for filing claim bills (Senate Rule 4.81(2))
- **January 9, 2024** Regular Session convenes (Article III, section 3(b), State Constitution) 12:00 noon, deadline for filing bills for introduction (Senate Rule 3.7(1))
- **February 24, 2024** Motion to reconsider made and considered the same day (Senate Rule 6.4(4)) All bills are immediately certified (Senate Rule 6.8)
- **February 27, 2024** 50th day – last day for regularly scheduled committee meetings (Senate Rule 2.9(2))
- **March 8, 2024** 60th day – last day of Regular Session (Article III, section 3(d), State Constitution)

## UPDATES TO FORM I-9:

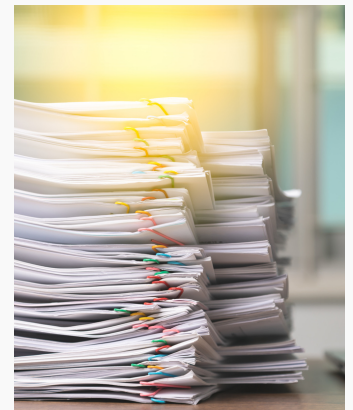
A revised Form I-9 is now accessible for use. Employers have the option to continue using the prior version of Form I-9 (Rev. 10/21/19) until October 31, 2023. Beyond this date... [READ MORE](#)

## ANALYZING THE DOL'S PROPOSED RULE FOR FLSA OVERTIME EXEMPTIONS:

The Proposed Rule primarily focuses on salary levels and does not propose any changes to the duties test. The Department of Labor (DOL) anticipates that approximately 3.4 million exempt workers will be affected, with employers facing an estimated cost of \$1.2 billion, representing an income transfer to employees. This change is expected... [READ MORE](#)

## EEO-1 REPORT DEADLINE CONFIRMATION:

The EEOC has confirmed that the deadline for submitting the EEO-1 Report is December 5th. The EEO-1 Component 1 data collection for 2022 will commence on October 31. Private employers with at least 100 employees are required to annually file the EEO-1 form, providing detailed information about the racial, ethnic, and gender composition of their workforce by specific job categories. Additionally, federal government contractors and first-tier subcontractors with 50 or more employees and contracts totaling at least \$50,000 are obligated to submit EEO-1 reports. However, state and local governments and public school systems are exempt from this requirement (Shepherd, 2023).





## Updates to Form I-9:

A revised Form I-9 is now accessible for use. Employers have the option to continue using the prior version of Form I-9 (Rev. 10/21/19) until October 31, 2023. Beyond this date, utilizing the older form may result in penalties.

You can access the new form at this link: <https://www.uscis.gov/i-9>.

An alternative procedure for remotely verifying employment eligibility documents for eligible employers has been in effect since August 1, 2023. To qualify for this alternative method, employers must meet specific criteria: they should have a history of participation in E-Verify, maintain good standing, and have previously initiated E-Verify cases for employees whose documents were remotely reviewed during the COVID-19 flexibilities.

What does the alternative option entail?

Within three business days of an employee's first day of work, a qualified employer (or an authorized representative acting on behalf of the employer, such as a third-party vendor) choosing to utilize the alternative procedure must:

1. Review copies of Form I-9 documents or an acceptable receipt (both front and back if the document is two-sided) to ensure their authenticity. (Employees are required to transmit copies of their documents to the employer and then present the same documents during a live video interaction.)
2. Conduct a live video interaction with the individual presenting the documents to verify their authenticity and relevance.
3. Clearly indicate in the records that an alternative procedure was employed for document examination when completing Section 2 or during re-verification, as applicable.
4. Retain clear and legible copies of the documentation (front and back for two-sided documents).
5. In the event of a Form I-9 audit or investigation by a relevant federal government official, make these clear and legible copies of the identity and employment authorization documents available, as they were presented by the employee during the employment eligibility verification process (Guardian HR, 2023).

For more information about the new alternative method, please visit the E-Verify website: <https://www.e-verify.gov/about-e-verify/whats-new/new-form-i-9-notice-published-allowing-e-verify-employers-to-remotely>.



# Analyzing the DOL's Proposed Rule for FLSA Overtime Exemptions:

The Proposed Rule primarily focuses on salary levels and does not propose any changes to the duties test. The Department of Labor (DOL) anticipates that approximately 3.4 million exempt workers will be affected, with employers facing an estimated cost of \$1.2 billion, representing an income transfer to employees. This change is expected to enhance worker productivity, reduce turnover, and provide a better work-life balance.

## Key Adjustments to EAP Salary Levels:

1. The proposed salary threshold is \$1,059 per week (\$55,068 per year), with a footnote indicating that this figure is based on 2022 calculations and could potentially rise to \$1,158 per week (\$60,209 per year) by 2024 when the final rule is expected to be implemented.
2. Automatic increases will occur every three years.
3. Additional changes apply to employees in Puerto Rico, Guam, the US Virgin Islands, CNMI, American Samoa, and the motion picture industry.

## Challenges the Rule May Encounter:

1. Challenges regarding salary rules exceeding the DOL's authority to define EAP "capacity."
2. Challenges related to the auto-increasing mechanism potentially exceeding regulatory bounds.
3. Challenges pertaining to the DOL's authority to issue rules without a permanent Secretary in place.

## Future Steps for Employers:

1. Comments on the proposal should be submitted within 60 days after it is published in the Federal Register.
2. The final rule is not expected to be issued until 2024.
3. Employers will likely be provided with a grace period lasting 30 to 90 days to ensure compliance.

### Preparation Steps:

1. Identify key stakeholders whose buy-in is essential for effectively executing a classification review project and implementing changes.
2. Develop a comprehensive overview of the exempt workforce, including roles, responsibilities, compensation ranges, and locations.
3. Categorize roles into low-risk, high-risk, and grey areas, determining which jobs require reclassification and which can remain unchanged.
4. Plan the review process to ensure sufficient time to assess roles, identify necessary changes, and implement those changes.
5. Consider the direct and indirect impacts of the changes, including payment structures, bonus structures, benefits, and training for employees on timekeeping, overtime, and meal/rest breaks.
6. Develop a communication strategy for effectively disseminating information regarding the changes (Young, 2023).



## References

Guardian HR (2023, July 25). Urgent: Form I-9 Flexibilities: E-Verify Update. Guardian HR LAWlert.

Shepherd, L. (2023, September 6). EEO-1 Submission Deadline Confirmed. [EEO-1 Submission Deadline Confirmed \(shrm.org\)](https://www.shrm.org/eeo-1-submission-deadline-confirmed).

Young, K. (2023) Planning & Prognostication Unpacking the DOL's Proposed Rule to Modify the FLSA Overtime Exemptions. Seyfarth Shaw LLP.