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U.S. Department of Labor Scales Back Obama Overtime Rule

The United States Department of Labor (DOL) issued its long-awaited final rulemaking on employee overtime pay this week. The final rule updates earnings thresholds that must be reached to exempt executive, administrative, or professional employees from the Fair Labor Standards Act's minimum wage and overtime pay requirements.

The new DOL rule raises the annual earnings threshold that triggers overtime pay (time and a half) for an employee working beyond 40 hours per week from \$23,660 to \$35,568. The annual earnings threshold increase will expand overtime pay eligibility to 1.3 million workers for the first time. The new, higher threshold accounts for growth in employee earnings since the currently enforced thresholds were set in 2004. Moreover, the final rule does not adjust the annual earnings threshold to inflation. Instead, any increase would require a new DOL rulemaking based on a determination of economic need.

The final rule replaces an Obama Administration rulemaking that raised the annual earnings threshold for overtime eligibility to \$47,476. The Obama rule would have expanded overtime eligibility to 4.2 million workers. However, a federal court enjoined the rule from going into effect. The new overtime rule was written in response to the federal court action.

The final rule would also:

- allow employers to count a portion of certain bonuses and commissions towards meeting the annual salary level;
- raise the "standard salary level" from \$455 to \$684 per week (equivalent to \$35,568 per year for a full-year worker);
- raise the total annual compensation level for "highly compensated employees" from \$100,000 to \$107,432 per year; and
- allow employers to use nondiscretionary bonuses and incentive payments (including commissions) to satisfy up to 10 percent of the standard salary level.

Click [here](#) to view the Small Business Legislative Committee's (SBLC) report on the final rulemaking.

The final rule takes effect on January 1, 2020.

E-Cigarettes Continue to Receive Intense Review

This week, two House Committees held hearings on e-cigarettes.

Democrats want e-cigarettes to be banned until approved by the Food and Drug Administration (FDA) through the FDA's premarket tobacco product application (PMTA) pathway. By May of next year, all manufacturers will have to apply for new product approval and FDA could grant approval for

manufacturer's flavored products to come back on to the market. Specifically, Acting FDA Commissioner, Ned Sharpless, wants to ban e-cigarettes not only from convenience and other non-adult only retail, but also from the Internet.

On September 11, the Trump Administration announced that the FDA plans "to finalize a compliance policy in the coming weeks that would prioritize the agency's enforcement of the premarket authorization requirements" for flavored e-cigarettes other than tobacco-flavored e-cigarettes. Click [here](#) to view a copy of the FDA news release.

The announcement appears to reference the FDA's March proposed draft Guidance "Modifications to Compliance Policy for Certain Deemed Tobacco Products." A guidance document explains how a federal agency intends to administer and enforce current law and how those being regulated can comply with current regulations.

The March draft Guidance would apply to certain flavored electronic nicotine delivery systems (ENDS), but not tobacco-flavored, mint-flavored or menthol-flavored electronic products. The FDA explained in the March 2019 Guidance that its prioritized enforcement will focus on flavored ENDS products (other than tobacco-flavored, mint-flavored, and menthol-flavored ENDS products) "that are offered for sale in ways that pose a greater risk for minors to access such products."

However, the announcement on September 11 indicates that the FDA will prioritize its enforcement on all flavored e-cigarettes except tobacco-flavored electronic nicotine delivery systems. This enforcement prioritization would likely include mint-flavored and menthol-flavored e-cigarettes because the announcement references preliminary results from the National Youth Tobacco Survey that "the overwhelming majority of youth e-cigarette users cited the use of popular fruit and menthol or mint flavors."

It is important to understand that the final compliance policy that will be issued by the FDA will need to be analyzed to determine exactly what enforcement actions the agency intends to take and to which electronic nicotine products the policy will apply. PMAA will update members once the FDA issues the final compliance policy.

In addition, last week, Representatives Pete King (R-NY) and Tom Suozzi (D-NY) introduced H.R. 4425, the "Quell Underage Inhaling of Toxic Substances Act" or QUITs Act. The bill would ban flavored e-cigarettes, raise tobacco taxes, establish equivalent tax on e-cigarettes, increase resources available to those who want to quit smoking, and more than double funding for the Centers for Disease Control and Prevention (CDC)'s Office on Smoking and Health from \$210 million to \$500 million.

Farm-State Lawmakers Growing Impatient for Biofuels Deal with Trump Administration

This week, Sen. Chuck Grassley (R-IA) expressed his frustration with the Trump Administration over its delay to produce a biofuels package that would assist biofuel producers. Speaking to reporters this week, Sen. Grassley stated, "This agreement we have with the White House, it's 15 billion gallons, why isn't that the end of it? Let's either do our job or get off the pot. Let's call this thing to an end. We ought to have this paper from the EPA yesterday."

Grassley was referring to the potential deal brokered between midwestern senators and the Trump Administration two weeks ago after Vice President Mike Pence met with Sen. Grassley and other

midwestern senators to discuss the issue of small refinery exemptions (SRE's) and what the administration can do to help farmers. According to reports, the potential deal would include a limit to the number of SRE's that EPA issues, an increase in the volumes of biofuels that must be blended into gasoline to 15 billion gallons and efforts to boost the spread of E15.

Sen. Grassley said that the delay is "hurting the president more in Iowa than even the China debate," referring to the trade war with China that is hurting rural farmers. He added, "I think farmers have patience with China, the negotiations going on with China. They know China has been cheating. What they don't understand is, they're promised 15 billion gallons of ethanol to be used but get 13.6 [billion gallons]." On Tuesday, an Iowa biodiesel plant, W2 Fuel, announced that it would be shutting down. Iowa Gov. Kim Reynolds (R-IA) responded to the news saying that the SRE's are hurting farmers in the state and something must be done to assist them. Gov. Reynolds attended the meeting with Sen. Grassley and other midwestern senators two weeks ago.

The administration is taking this action in order to shore up support among farmers who are angry over falling crop prices from stagnant ethanol blending volume and loss of market share due to the recent increase in SRE's and the ongoing trade war with China. However, the Trump Administration's plan is unlikely to satisfy renewable fuel producers because the higher blending volumes are not enough to offset the 4.2 billion gallons of renewable fuel lost to SRE's. The plan's expected unveiling could happen as soon as October 1.

House Committee Moves Union Bill

Labor to Propose to Improve Paid Family and Medical Leave

On Wednesday, the House Education and Labor Committee passed the, Protecting the Right to Organize Act, (H.R. 2474) by a partisan vote of 26-21.

Republicans strongly oppose the legislation; however, 208 Democrats are cosponsors of the bill introduced by Labor Committee Chairman Bobby Scott (D-VA). The bill would permit the National Labor Relations Board (NLRB) to level fines if employers terminate a worker wrongfully. The card-check provision would overturn a 1947 amendment to the National Labor Relations Act that made card check recognition for unions voluntary. Since then, only secret-ballot elections supervised by the NLRB have required employers to recognize unions. H.R. 2474 would also give the NLRB more power to punish employers for stopping a union campaign. It also would broaden the legal test for determining when companies in franchise and staffing, should be considered joint employers.

Four amendments from Democrats were also adopted that would clarify that an employer calling a worker an independent contractor is a violation of the National Labor Relations Act, would allow union elections through certified mail or electronically, at the workplace or at an outside location, and would prohibit employers from locking out workers.

Ranking member Virginia Foxx (R-NC) offered an amendment that would have renamed the bill the "Socialist Solutions for Unions Act." The good news is that the bill is dead on arrival in the GOP-controlled Senate.

Also, on Wednesday, the White House budget office began a review of a Department of Labor (DOL) request for comments on ways to improve the 1993 Family and Medical Leave Act. White House senior adviser Ivanka Trump has worked to advance paid leave legislation and Sens. Bill Cassidy (R-La.) and

Kyrsten Sinema (D-Ariz.) released a paid leave proposal in July allowing parents to borrow money against future child tax credits. Further, Senator Kirsten Gillibrand (D-N.Y.) and Rep. Rosa DeLauro (D-Conn.) reintroduced a bill in February that would give workers 12 weeks of paid family leave.

Federated Insurance to Spark a Conversation around Fire Prevention in October

Non-residential fires cause an average of \$2.4 billion in property damage every year. More importantly, an average of 90 people lose their lives and 1,350 people are injured as a result of these fires every 12 months.* To help business owners prevent avoidable fires and the devastating consequences that come with them, Federated Insurance is running a campaign timed in conjunction with National Fire Prevention Week (October 6-12, 2019). This campaign is designed to equip recipients with practical, industry-specific risk management tools that can help reduce the risk of workplace fires.

Fire Prevention Week runs from October 6–12. It's a great opportunity to remind yourself and your employees of the importance of fire prevention, but it shouldn't be the only time of year you think about it.

To read the news release regarding the information Federated's policyholders will receive the week of September 30 and additional resources on fire prevention, please click [here](#). For additional information or to discuss further, please contact your [Federated](#) regional representative or PMAA's *newly assigned* National Account Executive [Jack West](#) at 800.533.0472. **Federated is a PMAA Corporate Platinum Partner.**

Federated Insurance Risk Management AcademySM Offered November 5-7, 2019

Federated Insurance is offering complimentary risk management training *for all industries* on November 5-7, 2019. Through this valuable session, you will discover methods you can use immediately to help protect profits by reducing risk at your business.

Companies that are the most successful at controlling losses and protecting profits have integrated risk management into their overall company culture. Many have designated a key person as their risk manager. This person is supported by your company's top management and is both responsible and accountable for identifying loss exposures and implementing risk management solutions.

This seminar's objective is to help your risk manager learn the exposures specific to All Industries, connect with peers from across the country and apply these best practices within your business.

"Attending this training is one of the best investments you can make to help protect your business and its bottom line!" 2019 RMA Attendee

You can learn more by viewing a brief [video](#) about the Risk Management Academy. To [reserve your spot](#) in the upcoming session or for more information, please contact [Royetta Spurgeon](#) or (800)533-0472 Ext. 455-5604 or visit [Federated's website](#). **Federated is a PMAA Corporate Platinum Partner.**

PMAA Corporate Platinum Partner Spotlight Featuring: Renewable Energy Group, Inc.
Biodiesel Now Employs Over 70,000 U.S. Workers

Readers who have been keeping up with the ongoing push for the Biodiesel Tax Credit (BTC) renewal or the discussions around the Renewable Fuel Standard (RFS) are probably familiar with the number “64,000.” That’s the amount of jobs directly attributed to the biodiesel industry in 2016, cited frequently by biofuel proponents. As of 2018, that number has grown significantly.

According to the International Renewable Energy Agency’s [Renewable Energy and Jobs – Annual Review 2019](#), U.S. biodiesel output rose 16 percent in 2018, driving employment to “a new peak of 72,300 jobs.”

To read the press release in its entirety, please click [here](#). Please [visit](#) or contact REG at 515.239.8104.
Renewable Energy Group is a PMAA Corporate Platinum Partner.

Promote Your Products or Services in PMAA’s Online Buyer’s Guide

The Petroleum Marketers Association of America (“PMAA”) exclusive PMAA Buyers’ Guide (the “Guide”) — the premier resource of relevant products and services for petroleum professionals — is available at the [PMAA website](#).

PMAA partnered with Overland Park, Kansas-based Strategic Value Media, a leading nationwide provider of print and digital media solutions for national, state and local trade and membership associations, to produce the Guide. PMAA is proud to provide its members with this useful and easily accessible year-round resource.

“This comprehensive Guide offers access to a vast network of industry suppliers,” said Rob Underwood, President of PMAA. “We are very pleased with the fine work SVM has done with this Guide, which will now greatly assist industry professionals in making educated purchasing decisions throughout the year. The response to this Guide by the industry has been nothing short of outstanding.”

The 2019 version of the [Guide](#) features updated and expanded company and product listings, in addition to other valuable information relating to the petroleum industry. The Guide provides PMAA members and other industry professionals with an efficient way to browse for goods and services. The Guide also offers petroleum suppliers and companies exceptional visibility by showcasing their products and services to a targeted, industry-specific buyer group.

If your company or business has not yet taken advantage of this exceptional opportunity to highlight your products and services in the Guide, it is not too late! To learn more about advertising your products or services in this exclusive Guide, please [email](#).