

Updating Colorado's overtime salary threshold

How the new rule will benefit Colorado businesses, employment, and the broader Colorado economy

Public Comments • By [Heidi Shierholz](#) • August 28, 2019

Michael Primo
Rule Coordinator
Office of Labor Market Information
Division of Labor Standards and Statistics
633 17th St., Suite 600, Denver, CO 80202

Re: CDLE Request for Information on the Colorado Minimum Wage Order rule

Submitted via email to michael.primo@state.co.us

Dear Mr. Primo,

The Economic Policy Institute (EPI) is a nonprofit, nonpartisan think tank created in 1986 to include the needs of low- and middle-income workers in economic policy discussions. EPI conducts research and analysis on the economic status of working America, proposes public policies that protect and improve the economic conditions of low- and middle-income workers, and assesses policies with respect to how well they further those goals. I respectfully submit these comments in response to the Colorado Department of Labor and Employment's request for stakeholder feedback on the Colorado Minimum Wage Order (MWO) regulation, 7 CCR 1103-1. My colleague David Cooper [submitted comments](#) in support of this regulation earlier this month on behalf of EPI,¹ so instead of reiterating those points here, I will take this opportunity to briefly discuss the likely impact of this rule on Colorado businesses, employment, and the broader Colorado economy.

First, it is important to note that there are many ways employers can adjust if they have employees who are

affected by the new regulations, and employers will likely use different strategies for employees who are situated differently. One option is to provide an affected worker a raise to the new salary threshold so that they remain exempt from overtime protections. Another option is to pay an affected worker overtime pay (time and a half) when they work more than 40 hours in a week. The impact of this latter option could be mitigated by managing employees' time more efficiently, for example, avoiding late-in-the-day meetings and requiring that employees complete their weekly tasks within 40 hours, or by spreading the additional hours to part-time workers or other workers who haven't hit the 40-hour mark and who would likely benefit from the additional hours and pay. Some employers may find it advantageous to hire new staff instead of paying overtime premiums.

Importantly, *none* of these changes would require reclassifying any salaried staff as hourly employees—all that's required is keeping a record of hours worked. Because most employers already have at least some nonexempt staff, every major payroll system can already process overtime pay, meaning that most employers will not need to adopt new payroll or compliance systems. The change would also not impede employers from having flexible scheduling policies. Employees could still arrange highly flexible schedules—they would simply need to keep their hours within 40 per week if their employer wants to avoid overtime pay.

These changes will provide benefits to Colorado's employers. First, this rule will likely increase productivity. As mentioned above, employers may look for ways to organize workers' time more efficiently in response to these changes. Reducing overwork is one possible way to increase efficiency, since overworked employees are less productive. Research shows that employees who have adequate time to rest and recuperate each week, or between shifts, are more productive and less prone to at-work accidents and injuries. Relatedly, excessive work hours are linked to a variety of worse health outcomes, including increased risk of stroke and heart disease, which can be expensive to employers. In addition, research demonstrates a correlation between earnings and employee turnover. As a result, it is likely that some of the costs to employers of increased overtime pay will be offset by a reduction in turnover, which is expensive to employers and also reduces productivity.²

The rule will also likely boost employment since employers may hire additional staff instead of paying overtime premiums for extra hours by existing staff. As noted by the U.S. Department of Labor in its 2016 final rule, even Goldman Sachs and the National Retail Federation found this to be true—Goldman Sachs estimated that an increase in the national salary threshold from \$455 to \$970 per week would result in a total of 120,000 new hires nationwide, and an analysis by the National Retail Federation estimated that such an increase would create 117,100 jobs in the retail industry alone.³

Finally, because at least some portion of affected workers are likely to receive higher pay, expanding overtime protections can strengthen consumer buying power, particularly for middle-class households whose spending is the core driver of U.S. economic growth. This will be good for Colorado's businesses.

Setting the overtime salary threshold at 2.5 times the state minimum wage is a reasonable and appropriate salary level, one that (as my [colleague's comments](#) demonstrated⁴) is consistent with historic precedent and with the 2016 U.S. Department of Labor's rulemaking, and that will contribute to a prosperous Colorado economy that works for Colorado's businesses and working families alike. Thank you for the opportunity to submit comments on this important rule. Please do not hesitate to contact me at (202) 533-2560 if you have questions.

Sincerely,

Heidi Shierholz
Senior Economist and Director of Policy
Economic Policy Institute

1. David Cooper, "[Updating Colorado's Overtime Salary Threshold: Raising the Colorado Salary Threshold for Exemption from Overtime to 2.5 Times the Minimum Wage Would Restore Vital Protections Against Excessive Work Hours for Hundreds of Thousands of Colorado Workers](#)" (public comments), Economic Policy Institute, August 16, 2019.

2. See John Pencavel, "[The Productivity of Working Hours](#)," *Economic Journal* 125, no. 589 (2014): 2052–2076; Lonnie Golden, "[The Effects of Working Time on Productivity and Firm Performance, Research Synthesis Paper](#)," *International Labor Organization (ILO) Conditions of Work and Employment Series* no. 33 (2012); Allard E. Dembe, J. Bianca Erickson, Rachel G. Delbos, and Steven M. Banks, "[The Impact of Overtime and Long Work Hours on Occupational Injuries and Illnesses: New Evidence from the United States](#)," *Occupational and Environmental Medicine* 62, no. 9 (2005): 588–597; Heather Boushey and Bridget Ansel, [Overworked America: The Economic Causes and Consequences of Long Work Hours](#), Washington Center for Equitable Growth, May 2016; Mika Kivimäki et al., "[Long Working Hours and Risk of Coronary Heart Disease and Stroke: A Systematic Review and Meta-Analysis of Published and Unpublished Data for 603,838 Individuals](#)," *The Lancet* 386 (October 31, 2015); [Defining and Delimiting the Exemptions for Executive, Administrative, Professional, Outside Sales and Computer Employees \[final rule\]](#), 81 Fed. Reg. 32465 (May 23, 2016) pp. 32502–32504.

3. [Defining and Delimiting the Exemptions for Executive, Administrative, Professional, Outside Sales and Computer Employees \[final rule\]](#), 81 Fed. Reg. 32465 (May 23, 2016) p. 32503.

4. David Cooper, "[Updating Colorado's Overtime Salary Threshold: Raising the Colorado Salary Threshold for Exemption from Overtime to 2.5 Times the Minimum Wage Would Restore Vital Protections Against Excessive Work Hours for Hundreds of Thousands of Colorado Workers](#)" (public comments), Economic Policy Institute, August 16, 2019.