

HR Weekly Podcast 08-13-2014

Today is August 13, 2014, and welcome to the HR weekly podcast from the State Human Resources Division. Today's topic concerns the Department of Labor's Wage and Hour Division and Office of Federal Contract Compliance Programs, or OFCCP, regulatory agendas released on May 23, 2014.

The Wage and Hour Division's proposed rules include revising the Fair Labor Standards Act rules that define the exemptions for executive, administrative, professional, outside sales, and computer employees. Completion of this proposed rule will probably be in November of this year. In a March 13, 2014 memorandum to the Secretary of Labor, President Barack Obama directed the secretary to modernize and streamline the existing overtime regulations for executive, administrative, and professional employees. The regulations were last updated by the Department of Labor in 2004.

Two other regulations have been issued by the Wage and Hour Division. The Division issued on June 20, 2014, a proposed rule revising the definition of "spouse" for Family and Medical Leave Act, or FMLA, purposes, due to the recent United States Supreme Court's decision in the *United States v. Windsor* case. A fact sheet has already been issued by the Department of Labor defining "spouse" for FMLA purposes as "a husband or wife as defined or recognized under state law for purposes of marriage in the state where the employee resides, including 'common law' marriage and same-sex marriage." The other proposed rule issued on June 12, 2014, increases the minimum wage that must be paid to federal contractors' workers to \$10.10 per hour and indexes the wage rate to inflation thereafter. This proposed rule is in accordance with Executive Order 13658.

The Wage and Hour Division has issued two additional proposed rules. One is the Right to Know rule requiring employers to disclose to employees their status as an employee or some other status, such as, independent contractor. The employer must also disclose to employees how their pay is computed. The other proposed rule pertains to the prohibition of children under the age of 18 from operating or assisting in the operation of patient or resident lifts. The proposed rule would examine whether the current non-enforcement of this order provides adequate protection to youth.

On August 6, 2014, the OFCCP announced a proposed rule that revives the Equal Opportunity Survey at the direction of President Obama. This proposed rule requires that summary data be submitted to the Department of Labor on the compensation paid to the employees of federal contractors and subcontractors. The summary information must also include data by sex and race.

The OFCCP anticipates issuing a proposed rule in September of this year which creates more current anti-sex discrimination regulations which prohibits federal contractors from discriminating based on race, color, sex, religion, or national origin. This proposed rule implements Executive Order 11246. Another OFCCP proposed rule to be issued in September will protect employees who discuss their compensation without the fear of retaliation.

In addition, the OFCCP plans to issue a rule which would address disparities in the representation of women and minorities in construction occupations in the construction industry. The proposed rule, anticipated by January 2015, provides for "a new method for establishing affirmative action goals, and proposing other revisions to the affirmative action requirements that reflect the realities of the labor market and employment practices in the construction industry today."

If you have a question about this topic, please contact your HR Consultant at 803-896-5300. Thank you.