

Northern New England

MONDAY MORNING MINUTE

December 8, 2014

U.S. DOL to Issue New Fair Labor Standards Act Regulations

The United States Department of Labor (“DOL”) is expected to issue long awaited proposed regulations this coming February. The regulations are expected to modernize and streamline FLSA exemptions for executive, administrative, and professional employees, according to the DOL’s [Fall 2014 Agency Rule List](#). Among other things, the agency also expects to finalize its rule on the FMLA’s definition of “spouse” by the end of March 2015. The agency has also implemented a raise of the minimum wage for workers on certain new federal contracts.

Regulatory revisions to FLSA exemptions. The DOL said that it expects to publish a proposed rule by the end of February 2015 titled, *Defining and Delimiting the Exemptions for Executive, Administrative, Professional, Outside Sales, and Computer Employees*. In Sec. 13(a)(1), the FLSA provides a minimum wage and overtime exemption for employees who are employed in a bona fide executive, administrative, or professional capacity, or in the capacity of an outside salesperson. In a March 13, 2014 memorandum, President Obama directed the Secretary of Labor to modernize and streamline existing overtime regulations for executive, administrative, and professional employees. These regulations were last updated in 2004.

FMLA definition of “spouse.” The agency’s regulation on the Family and Medical Leave Act of 1993, as amended, will be finalized by the end of March 2015. The comment period on the proposed regulation ended on November 14, 2014. The FMLA entitles eligible employees of covered employers to take unpaid, job-protected leave for specified family and medical reasons with continuation of group health insurance coverage under the same terms and conditions as if the employee had not taken leave. Leave may be taken, among other reasons, to care for the employee’s spouse who has a serious health condition. The DOL has proposed to revise the definition of “spouse” in light of *United States v.*

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Windsor, which struck down the provision in the Definition of Marriage Act that limited the definition of “marriage” to a man-woman union.

Minimum wage for federal contractors. Consistent with a final rule published by the DOL on October 7, 2014 and effective December 8, 2014, workers on certain new federal contracts will be entitled to a minimum wage of \$10.10 an hour. Executive Order 13658 put that minimum wage increase into place. It also indexes the future minimum wage rate for those affected federal contractors to inflation. The DOL has issued implementing regulations as required by the Executive Order.

Your Jackson Lewis attorney can answer questions regarding this and other employment law issues.



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