



Department Of Labor Publishes New Regulations Regarding Overtime Requirements And OSHA Reporting Requirements

By Tony Stergio, Shareholder, Andrews Myers, PC

The Obama Administration, seeking to cement new regulations before leaving office, recently issued two new Department of Labor regulations: one related to overtime requirements, the other related to OSHA reporting requirements.

A. The Overtime Regulations

The new Overtime Rule focuses primarily on raising the salary and compensation levels needed for Executive, Administrative, and Professional workers to be exempt. Specifically, the Final Rule:

1. Sets the required salary level provisions under which white collar workers are entitled to receive overtime pay to equal the 40th percentile of earnings of full-time salaried workers. The change raises the current \$455 a week level to \$913 per week, or \$47,476 annually (up from \$23,660);
2. Sets the total annual compensation requirement for the highly compensated employee exemption at the 90th percentile of full-time salaried workers nationally, which is \$134,004 (up from \$100,000); and
3. Establishes a mechanism for automatically revising the salary compensation levels every three years to maintain the salary levels at the above percentiles.

Given these regulations, employers will need to weigh whether to increase the salaries of exempt employees whose current salary is below the new salary threshold, or make those employees hourly and thus eligible for overtime.

B. The OSHA Year-End Recordkeeping Regulations

The latest Occupational Safety And Health Administration record-keeping rule adds a requirement that certain OSHA-recordable information must be electronically submitted, on an annual basis, to OSHA. OSHA will make this electronically submitted information publically available after removing all personally identifiable information related to the employee involved in the reportable injury.

The requirement applies to the following:



- Establishments with 250 or more employees that are currently required to keep OSHA injury and illness records must electronically submit information from OSHA Forms 300 on an annual basis.
- Establishments with 20-249 employees, that are classified in certain industries with historically high rates of occupational injuries and illnesses, must electronically submit information from OSHA Form 300A.

The changes also involve new requirements aimed at encouraging employee reporting of incidents and discouraging employer retaliation for such reporting. Employers now must inform employees of two things:

1. That they have a right to report work-related injuries and illnesses, and
2. That employers are prohibited from retaliating against them for such reports.

Timetable of Additional New Regulations

This rule imposes some significant requirements on covered employers, with a short turnaround time for the earliest implementation. Therefore, covered employers should immediately begin preparing for the following deadlines:

- August 10, 2016 – Covered employers must establish a reasonable procedure for reporting workplace injuries or illnesses. The policy must not deter or discourage an employee from such reporting and must notify employees of these policies and of their rights.
- August 10, 2016 – Vet existing safety incentive programs to assure they do not unwittingly deter or discourage employees from reporting workplace-related injury or illness.
- July 1, 2017 – The earliest deadline for annual electronic reporting.

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Board Certified in Labor and Employment Law by the Texas Board of Legal Specialization, Anthony G. "Tony" Stergio has extensive experience in the defense of State and Federal employment discrimination claims, wage and hour compliance, OSHA compliance and contests, noncompetition agreements and employment policy design and review. He has been a member of the Employment Practices Committee of the AGC-Houston Chapter for many years including the AGC Houston Safety Committee.

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