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BLOGS

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Be Prepared – Watch for the Following in the New Year

Believe it or not, 2014 is drawing to a close and a new year is around the corner. As you prepare for 2015, here are some items on the U.S. Department of Labors regulatory agenda that you will want to track:

We've been on the look-out for proposed revisions to the Fair Labor Standard Acts (FLSA) white collar exemptions from overtime and minimum wage requirements since March of 2014. That was when President Obama issued a directive for the Labor Secretary to modernize and streamline the existing regulations and increase the minimum salary for the white collar exemptions. The Department of Labor has now indicated that the proposed revisions will not be released until at least February of 2015. The final rule adopting any revisions will not be issued until sometime after the legally required notice and comment period is completed.

We expect the Department of Labor to issue a final rule revising the definition of spouse under the Family and Medical Leave Act (FMLA) by March of 2015. This definition change is necessary following the U.S. Supreme Courts decision in *United States v. Whiting*. In *Whiting*, the Supreme Court held that restricting the federal definition of marriage and spouse to heterosexual couples is unconstitutional. In response to *Whiting*, the Department of Labor issued a Notice of Proposed Rulemaking proposing a final rule that would provide that eligible employees in legal same-sex marriages may take FMLA leave to care for their spouse, regardless of whether their state of residence recognizes their marriage.

The Office of Federal Contract Compliance Programs, a division of the Department of Labor, intends to issue a final rule in the near future to implement Executive Order 13672. This Executive Order prohibits federal government contractors from engaging in employment discrimination based on sexual orientation or gender identity. It appears that the OFCCP will be publishing its final regulations without a public notice and comment period. In that event, the regulations will likely be effective when issued.

Employers should stay tuned in the New Year and will need to adjust their policies and practices when the Department of Labors final rules appear.