



EMPLOYER LAW BLOG

# DOL Plans to Announce Increased Salary Requirement in the Summer of 2016

AUTHOR: SANDBERG PHOENIX

By Tom Berry

As we previously reported, the minimum salary amount for an exempt employee since 2004 was \$455/week or \$23,660/annually. On July 6, 2015, the DOL announced its proposed rule which, in part, would mandate that employers have to pay an exempt employee a minimum salary of \$970.00/week, or \$50,440/annually. The public comment period ended on September 4, 2015, and the DOL received approximately 300,000 submitted comments, both pro and con.

Presently the DOL is reviewing the submitted comments, which it must “consider” before issuing a final rule. There is no formal deadline or timetable for the DOL to complete its review, which of course leads to rampant speculation as to when employers will be required to increase the minimum salary amount in order to preserve an employee’s exempt status from overtime. While the DOL will not identify when it will complete the review process and issue a final rule, it did recently suggest that it anticipates that the final rule will be finalized and announced in summer of 2016.

Twice a year, all federal agencies are required to update the regulatory agenda with the Office of Management and Budget. On November 19, 2015, the DOL updated the agenda with an anticipated target date of July 2016 for issuance of the final rule addressing the increase of the minimum salary amount. While this timetable is not binding, and it is certainly common for agencies to take longer than anticipated to complete the regulatory process, this announcement is consistent with the expectations that the DOL intends to make the increase to the minimum salary amount its key regulatory objective.

With a target issuance date of next summer, employers must begin to prepare now for a significant increase. When the DOL announced the last salary increase in April 2004, employers were afforded 120 days to prepare before the new salary amounts were effective. There is no guarantee that the DOL will afford a similar 4-month period of time once it issues its new salary rule next summer. For those employees that are presently classified as exempt, but receive a salary significantly less than the amount the DOL is proposing, employers will have to seriously consider reclassifying such individuals as hourly employees and, of course, paying for all hours worked in excess of 40 hours at the overtime rate.