

Department of Labor Issues Final "Fairpay" Overtime Rules

April 21, 2004

The United States Department of Labor issued its final rules governing overtime pay for millions of workers on Tuesday, April 20, 2004. Touted as the "Fairpay Rule," the new rules expand the number of workers eligible for overtime by nearly tripling the salary threshold.

Under the new rules, highly compensated employees performing office or non-manual work and receiving total annual compensation of \$100,000 or more (which must include at least \$455 per week paid on a salary or fee basis) are exempt from the FLSA if they customarily and regularly perform at least one of the duties of an exempt executive, administrative or professional employee identified in the standard tests for exemption. Under the proposed rule, the threshold for "highly compensated" workers was set at \$65,000.

The Department's summary of the final rule said the changes could give up to 1.3 million low-wage workers an additional \$375 million in compensation each year. Under the current rules, only workers who earn less than \$8,060 are automatically eligible for overtime. Before the political wrangling, the proposed rule called for raising the cap to \$22,100. Under the final rule, however, workers who earn less than \$23,660 (\$455/week), are entitled to overtime pay. Police, firefighters, nurses and emergency medical technicians are also identified as jobs that will not lose their overtime eligibility.

Proposed rules were issued last year, but they were significantly revised after the Labor Department received over 75,000 public comments and Congressional opposition from Democrats and many Republicans. The final rules are set to be published in the Federal Register within the next few days and absent political or legal intervention, the new Rules are set to take effect in 120 days, or mid-August.

In coordination with its Westside Labor Seminar, scheduled for April 28, 2004, in Kalamazoo, Miller Canfield will be issuing a more comprehensive overview of the new regulations and guidance on how to comply.

An FLSA Compliance Seminar for Southeast Michigan is currently set for June.

To discuss any questions or related issues, please feel free to contact our Labor and Employment Law Group. This message is for general information only and should not be used as a basis for specific action without obtaining further legal advice.