

The Department of Labor's Upcoming Agenda Items.

The Overtime Rule – There is an indication that the DOL may adopt California's white collar test rules. Having had experience in California, I will say their rules do give you specific guidance. The proposed rule is expected in August. Of course, nothing is certain.

[View Rule \(reginfo.gov\)](#)

Modernization of Affirmative Action – The proposed changes are expected in December and will consider modifications to EO 13988, preventing and combating discrimination on the basis of gender identity or sexual orientation.

Improve Tracking of Workplace Injuries and Illnesses – For background..... In 2016, OSHA finalized a rule which, among other things, required certain establishments to electronically submit certain case-specific injury and illness information to OSHA each year (81 FR 29624 (May 12, 2016)). Approximately, three years later, the agency rescinded the requirements to submit the case-specific information (84 FR 380 (January 25, 2019)).

On March 30, 2022, OSHA published a Notice of Proposed Rulemaking which would amend its occupational injury and illness recordkeeping regulation to again require certain employers to annually electronically submit injury and illness information (87 FR 18528). Specifically, OSHA proposed to amend its regulation to require establishments with 100 or more employees in certain designated industries to electronically submit information from their OSHA Forms 300, 301, and 300A to OSHA once a year. Under the proposal, establishments with 20 or more employees in certain industries would continue to be required to electronically submit information from their OSHA Form 300A annual summary to OSHA once a year. OSHA also proposed to update the classification system used to determine the list of industries covered by the electronic submission requirement. Finally, OSHA proposed to remove the current requirement for establishments with 250 or more employees, not in a designated industry, to electronically submit information from their Form 300A to OSHA on an annual basis in June of each year.

The Independent Contractor Rules Final Rule – It was expected in August and has now been moved to October.

The independent contractor proposed rule under the FLSA was issued last year. Independent contractors aren't covered by wage and hour laws, so they aren't subject to requirements like overtime. More recently, the National Labor Relations Board modified the standard for independent contractors under the National Labor Relations Act.

Remote I-9 Verification - The final rule is expected in August and would allow the Secretary of DHS to authorize alternative document examination procedures in certain circumstances.

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