



## HOW SIGNIFICANT ARE DOL OPINION LETTERS?

By Steven John Fellman

**Galland, Kharasch, Greenberg, Fellman & Swirsky, P.C.**

The DOL drafts opinion letters in response to written questions it receives from private industry on the application of federal labor laws or regulations to an individual company's policies, procedures or operations.

A private industry representative, usually a business owner, trade association representative or attorney, will submit a letter to the agency in which the author describes a particular practice in its own operations and asks the government to provide guidance as to whether or not that practice complies with federal labor law. The agency drafts its response to such inquiries in the form of an opinion letter. Once finalized, the letter is signed either by the administrator of the DOL department with jurisdiction over the law in question, or other officials in that department.

An opinion letter signed by the administrator of a DOL department is an official ruling or interpretation of that department. You should treat such signed letters as the DOL's interpretation of the law. However, such letters can be overruled by the Courts. In the event of a vacancy in the administrator's post, an opinion letter signed by the acting administrator, deputy administrator, or other officer of the DOL to whom authority was properly delegated, is treated as an administrator letter and also constitutes an official ruling of the agency. However, opinion letters signed by other DOL officials, known as non-administrator letters and denoted by an NA following the opinion letter number, do not constitute regulatory rulings or interpretations.—  
*Charles Tomlinson*