

441 G St. N.W.  
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January 28, 2021

Chair  
Ranking Member  
Committee on Health, Education, Labor, and Pensions  
United States Senate

The Honorable Bobby Scott  
Chairman  
The Honorable Virginia Foxx  
Republican Leader  
Committee on Education and Labor  
House of Representatives

Subject: *Department of Labor, Employment and Training Administration: Strengthening Wage Protections for the Temporary and Permanent Employment of Certain Aliens in the United States*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Department of Labor, Employment and Training Administration (Department) entitled “Strengthening Wage Protections for the Temporary and Permanent Employment of Certain Aliens in the United States” (RIN: 1205-AC00). We received the rule on January 14, 2021. It was published in the *Federal Register* as a final rule on January 14, 2021. 86 Fed. Reg. 3608. The final rule is effective March 15, 2021.

According to the Department, the final rule adopts with changes an Interim Final Rule (IFR) that amended the Department’s regulations governing the prevailing wages for employment opportunities that U.S. employers seek to fill with foreign workers on a permanent or temporary basis through certain employment-based immigrant visas or through H-1B, H-1B1, or E-3 nonimmigrant visas. Specifically, the IFR amended the Department’s regulations governing permanent labor certifications and Labor Condition Applications to incorporate changes to the computation of wage levels under the Department’s four-tiered wage structure based on the Occupational Employment Statistics wage survey administered by the Bureau of Labor Statistics. The Department stated the primary purpose of these changes is to update the computation of prevailing wage levels under the existing four-tier wage structure to better reflect the actual wages earned by U.S. workers similarly employed to foreign workers. The Department further stated the final rule will allow it to more effectively ensure the employment of immigrant and nonimmigrant workers admitted or otherwise provided status through the above-referenced programs does not adversely affect the wages and job opportunities of U.S. workers.

Enclosed is our assessment of the Department’s compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work

relating to the subject matter of the rule, please contact Shari Brewster, Assistant General Counsel, at (202) 512-6398.

A handwritten signature in black ink that reads "Shirley A. Jones". The signature is written in a cursive, flowing style.

Shirley A. Jones  
Managing Associate General Counsel

Enclosure

cc: Robert Waterman  
Compliance Specialist  
Department of Labor

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE  
ISSUED BY THE  
DEPARTMENT OF LABOR,  
EMPLOYMENT AND TRAINING ADMINISTRATION  
ENTITLED  
“STRENGTHENING WAGE PROTECTIONS FOR THE  
TEMPORARY AND PERMANENT EMPLOYMENT OF  
CERTAIN ALIENS IN THE UNITED STATES”  
(RIN: 1205-AC00)

(i) Cost-benefit analysis

The Department of Labor, Employment and Training Administration (Department) estimated the final rule would create undiscounted costs totaling \$26,450,000 over 10 years and undiscounted transfer payments totaling \$155,730,000,000 over 10 years.

(ii) Agency actions relevant to the Regulatory Flexibility Act (RFA), 5 U.S.C. §§ 603-605, 607, and 609

The Department prepared a Final Regulatory Flexibility Analysis. The Analysis included (1) the objectives and legal basis for the final rule; (2) the agency's response to public comments; (3) the agency's response to comments from the Chief Counsel for Advocacy of the Small Business Administration; (4) a description of the number of small entities to which the final rule will apply; (5) a description of the projected reporting, recordkeeping, and other compliance requirements of the final rule; and (6) steps the Department has taken to minimize the significant economic impact on small entities.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

The Department stated the final rule does not contain a mandate subject to the Act.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 *et seq.*

On October 8, 2020, the Department published an interim final rule with comment period. 85 Fed. Reg. 63872. The Department received 148 comments it considered relevant and substantive and addressed them in the final rule.

Paperwork Reduction Act (PRA), 44 U.S.C. §§ 3501-3520

The Department determined the final rule does not contain information collection requirements subject to the Act.

#### Statutory authorization for the rule

The Department promulgated the final rule pursuant to sections 1101, 1101 note, 1103, 1182, 1182 note, 1184, 1184 note, 1188, and 1288 of title 8; section 2461 noted of title 28; section 49k of title 29; section 1806 of title 48, United States Code. The Department also promulgated the final rule pursuant to Public Laws 101-649, 103-206, 107-296, 109-423, and 114-74.

#### Executive Order No. 12866 (Regulatory Planning and Review)

The Department stated the Office of Management and Budget determined the final rule was economically significant.

#### Executive Order No. 13132 (Federalism)

The Department determined the final rule would not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.