

441 G St. N.W.
Washington, DC 20548

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June 9, 2021

The Honorable Patty Murray
Chair
The Honorable Richard Burr
Ranking Member
Committee on Health, Education, Labor, and Pensions
United States Senate

The Honorable Robert C. "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 Immigrants and Non-Immigrants in the United States: Delay of Effective and Transition Dates*

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 Immigrants and Non-Immigrants in the United States: Delay of Effective and Transition Dates" (RIN: 1205-AC00). We received the rule on May 13, 2021. It was published in the *Federal Register* as a final rule; delay of effective and transition dates on May 13, 2021. 86 Fed. Reg. 26164. The effective date is November 14, 2022.

According to the Department, the final rule delays the effective date of the previously issued final rule entitled "Strengthening Wage Protections for the Temporary and Permanent Employment of Certain Aliens in the United States" originally published on January 14, 2021, by 18 months. The final rule originally would have been effective on May 14, 2021, but is now delayed until November 14, 2022.

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.



Shirley A. Jones
Managing Associate General Counsel

Enclosure

cc: Sherril Hurd
Supervisor Workforce Analyst, DPLR, OPDR
Employment and Training Administration
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 IMMIGRANTS AND NON-IMMIGRANTS
IN THE UNITED STATES: DELAY OF EFFECTIVE AND TRANSITION DATES”
(RIN: 1205-AC00)

(i) Cost-benefit analysis

The Department of Labor, Employment and Training Administration (Department) estimated the final rule would lead to savings to employers in the form of reduced wages to employees. The final rule would result in a total reduction of transfer payments from employers to employees in the amount of \$32,049,000,000 at the 3 percent discount rate, and \$28,188,000,000 at the 7 percent discount rate, for the period from 2021-2030.

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

The Department performed a Final Regulatory Flexibility Analysis. The Analysis included: (1) a statement of why the Department was considering the action; (2) a description of the objectives and legal basis for the proposed rule; (3) a summary of the Department's response to public comments; (4) a description of the response from the Chief Counsel for Advocacy of the Small Business Administration; (5) an estimate of the number of small entities affected by the final rule; (6) a description of compliance requirements in the final rule, including reporting and recordkeeping; (7) an estimate calculating the impact of the final rule on small entities; (8) a description of federal rules duplicating, overlapping, or conflicting with the final rule; and (9) 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 determined the final rule contains no mandate and that the requirements of the Act do not apply.

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

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

On March 22, 2021, the Department published a proposed rule. 86 Fed. Reg. 15154. The Department received 627 comments on the proposed rule, 595 of which were unique comments. The Department responded to the comments in the final rule.

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

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

Statutory authorization for the rule

The Department promulgated the final rule pursuant to sections 1182 and 1182 note of title 8, United States Code.

Executive Order No. 12866 (Regulatory Planning and Review)

The Department stated the Office of Management and Budget had reviewed the final rule and determined it 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.