

## **U.S. Department of Labor**

### **Fall 2021 Statement of Regulatory Priorities**

#### ***Introduction***

The Department's Fall 2021 Regulatory Agenda continues to advance the Department's mission to foster, promote, and develop the welfare of wage earners, job seekers, and retirees; improve working conditions; advance opportunities for profitable employment; and assure work-related benefits and rights. These rules will strengthen protections for some of the Nation's most vulnerable workers, empower and support opportunities for advancement, secure our safety nets and advance equity and economic security.

In just the first months of the Biden Administration, the Department of Labor has begun historic rulemakings on issues central to workers in the United States and their families, including worker safety, protections from discrimination, fair wages, and retirement security and health care. These include the following rulemakings:

- We issued an Emergency Temporary Standard to help protect millions of frontline healthcare workers from exposure and spread of COVID-19, a virus that has already claimed the lives of over 750,000 people in the U.S. We also issued an Emergency Temporary Standard on Vaccination and Testing to protect more than 84 million additional workers from the consequences of COVID-19 exposure on the job. These science-based standards outline workplace safety protocols and will help save thousands of lives and prevent hundreds of thousands of hospitalizations.
- We finalized Interim Final Rules with the U.S. Department of Health and Human Services, the U.S. Department of Treasury, and the Office of Personnel Management to implement the No Surprises Act and protect people from unexpected medical expenses. Surprise billing can cause economic devastation for patients. This rule

puts patients first by providing safeguards to keep families from financial ruin when they need medical care.

- We have also expeditiously withdrawn or rescinded rules as necessary to protect and strengthen workers' economic security, including withdrawing the Independent Contractor Rule and rescinding the Joint Employer Rule.

The 2021 Regulatory Plan highlights the Labor Department's most noteworthy and significant rulemaking efforts, with each addressing the top priorities of its regulatory agencies: Employee Benefits Security Administration (EBSA), Employment and Training Administration (ETA), Mine Safety and Health Administration (MSHA), Office of Federal Contract Compliance Programs (OFCCP), Occupational Safety and Health Administration (OSHA), Office of Workers' Compensation Programs (OWCP), and Wage and Hour Division (WHD). These regulatory priorities exemplify the Secretary's agenda to empower all workers morning, noon, and night, including:

- Investing in and valuing the nation's care economy;
- Building a safe, modern, inclusive workforce; and
- Supporting a lifetime of worker empowerment.

Under Secretary Walsh's leadership, the Department is committed to ensuring that equity, a strong foundation of evidence, and extensive stakeholder outreach are integral to all of our regulatory efforts. Our Regulatory Agenda additionally reflects our ongoing commitment to the Biden Administration's prioritization of economic relief, raising wages, and addressing the threat of climate change, while embedding equity across the department's agencies, policies, and programs.

### ***Investing In and Valuing the Nation's Care Economy***

The Department's regulatory priorities reflect the Secretary's focus on care infrastructure to ensure workers have the opportunity and support to thrive in their jobs. That means ensuring workers can care for their families without risking their jobs, stay home when they're sick or when they need to care for a sick family member, and have access to the resources they need to manage their mental health.

- EBSA's rulemaking implementing the Mental Health Parity and Addiction Equity Act (MHPAEA) will strengthen health enforcement by clarifying plan and issuer obligations, promote compliance and address amendments to the Act from the Consolidated Appropriations Act of 2021.

In addition, OSHA will supplement its outreach and enforcement with rulemaking that protects employees in the care economy. Enhancing our care infrastructure starts with making sure our frontline care providers are safe on the job.

- OSHA will propose an Infectious Diseases rulemaking to protect employees in healthcare and other high risk environments from exposure to and transmission of persistent and new infectious diseases, ranging from ancient scourges such as tuberculosis to newer threats such as Severe Acute Respiratory Syndrome (SARS), the 2019 Novel Coronavirus (COVID-19), and other diseases.
- OSHA will initiate small business consultations as its first step in developing a Workplace Violence rulemaking, to provide protections for healthcare and other care economy workers, who are the most frequent victims of violence on the job.

### ***Building a Safe, Modern, Inclusive Workforce***

The Department's regulatory priorities reflect the Secretary's focus on ensuring people can have a good job and opportunity for advancement. That means people can have a job that is safe, a job that pays a fair wage, a job that does not discriminate and that has opportunities for advancement. And that means a job where workers have a seat at the table and have a say in their work.

The Department's health and safety regulatory proposals are aimed at eliminating preventable workplace injuries, illnesses and fatalities. Workplace safety also protects workers' economic security, ensuring that illness and injury do not force families into poverty. Our efforts will prevent workers from having to choose between their lives and their livelihood.

- OSHA will propose a rulemaking on heat illness prevention. Increased temperatures are posing a serious threat to workers laboring outdoors and in non-climate controlled indoor settings. Exposure to excessive heat is not only a hazard in itself, causing heat illness and even death; it is also an indirect hazard linked to the loss of cognitive skills which can also lead to workplace injuries and worker deaths. OSHA will develop a standard to protect workers from these heat hazards in the workplace, helping to save lives while we confront the growing threat of climate change.
- MSHA will propose a new silica standard to effectively assess health concerns with a goal of ensuring that all miners are safe at their work places.
- MSHA will promulgate a rule establishing that mine operators must develop and implement a written safety program for surface mobile equipment used at surface mines and surface areas of underground mines, in order to provide safe environments for miners.

The Department's regulatory agenda prioritizes workers' economic security; ensures they receive a fair day's pay for a fair day's work, and do not face discrimination in hiring, employment, or benefits on the basis of race, gender, religion, disability, national origin, veteran's status, sexual orientation, or gender identity. ETA, OFCCP and WHD will focus on regulatory changes that will have significant impact on workers of color, immigrant workers, and workers with disabilities.

- OFCCP is proposing to rescind certain provisions related to the religious exemption for federal contractors and subcontractors, ensuring that the religious exemption contained in Executive Order 11246 is applied consistently with nondiscrimination principles of Title VII of the Civil Rights Act of 1964, as amended.
- OFCCP will issue a proposal to modify the procedures for resolving potential employment discrimination, which is creating hurdles to effective enforcement.
- WHD issued regulations to implement President Biden's executive order requiring federal contractors to pay a \$15 minimum wage to hundreds of thousands of workers who are working on federal contracts. This will eliminate subminimum wages paid to some tipped workers and workers with disabilities, improve the economic security of families and make progress toward reversing decades of income inequality.
- WHD is proposing to update and modernize the regulations implementing the Davis Bacon and Related Acts to provide greater clarity and ensure workers are truly paid local prevailing wages on federal construction contracts.
- WHD will propose updates to the overtime regulations to ensure that middle class jobs pay middle class wages, extending important overtime pay protections to millions of workers and raising their pay.

- WHD engaged in rulemaking to ensure the economic security of tipped workers.
- ETA will ensure fair wages and strengthen protections for foreign and U.S. workers under the H-1B/H-2A visa programs through regulatory changes.

The Department is committed to ensuring workers have opportunities for employment and training and advancement in their jobs.

- ETA will ensure job-seekers can more easily get the support they need by proposing changes to the Wagner-Peyser Employment Service regulations.
- ETA is focused on ensuring high-quality apprenticeship programs, and as part of this, has proposed rescinding Industry Recognized Apprenticeship Programs (IRAP) rules and suspending further application review efforts for new IRAP Standard Recognition Entities in order to renew focus on Registered Apprenticeship.

The Department is committed to ensuring workers have a seat at the table and furthering this Administration's support for unions and workers who are organizing unions, which are critical to achieving economic fairness and racial and gender justice.

### ***Supporting a Lifetime of Worker Empowerment***

We are focused on making sure people do not have to worry that the loss of a job or need for medical care will destroy their financial well-being. People should be able to save for retirement, access health care, and have the support they need to get through a personal or family crisis or when they become injured or ill on the job.

- EBSA will support the administration's agenda to address the threat of climate change by implementing two executive orders that increase transparency in climate-

related financial investment options. To carry out Executive Order 13990 “Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis,” and Executive Order 14030, “Climate-Related Financial Risks,” EBSA is proposing to remove provisions of the current regulation that inappropriately discourage consideration of environmental, social, and governance issues by fiduciaries in making investment and proxy voting decisions, and provide further clarity that would help safeguard the interests of participants and beneficiaries in the plan benefits.