

standards, required by MSHA regulations and State regulatory agencies having jurisdiction over the plugging site will be followed to provide the upmost protection to the miners involved in the process.

(21) All miners involved in the plugging or re-plugging operations will be trained on the contents of the Decision and Order prior to starting the process, and a copy of the Decision and Order will be posted at the well site until the plugging or re-plugging has been completed.

(22) Mechanical bridge plugs should incorporate the best available technologies that are either required or recognized by the State regulatory agency and/or oil and gas industry.

(23) Within 30 days after the Decision and Order becomes final, the operator shall submit proposed revisions for its approved 30 CFR part 48 training plan to the District Manager. These proposed revisions shall include initial and refresher training on compliance with the terms and conditions stated in the Decision and Order. The operator shall provide all miners involved in well intersection with training on the requirements of the Decision and Order prior to mining within 150 feet of the next well intended to be mined through.

(24) The responsible person required under 30 CFR 75.1501 Emergency Evacuations is responsible for well intersection emergencies. The well intersection procedures should be reviewed by the responsible person prior to any planned intersection.

(25) Within 30 days after the Decision and Order becomes final, the operator shall submit proposed revisions for its approved mine emergency evacuation and firefighting program of instruction required under 30 CFR 75.1502. The operator will revise the program of instruction to include the hazards and evacuation procedures to be used for well intersections. All underground miners will be trained in this revised plan within 30 days of submittal. The procedure as specified in 30 CFR 48.3 for approval of proposed revisions to already approved training plans shall apply.

The petitioner asserts that the alternate method proposed will at all times guarantee no less than the same measure of protection afforded the miners under the mandatory standard.

Jessica Senk,
Director, Office of Standards, Regulations, and Variances.

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DEPARTMENT OF LABOR

Wage and Hour Division

Minimum Wage for Federal Contracts Covered by Executive Order 13658, Notice of Rate Change in Effect as of January 1, 2022

AGENCY: Wage and Hour Division, Department of Labor.
ACTION: Notice.

SUMMARY: The Wage and Hour Division (WHD) of the U.S. Department of Labor (the Department) is issuing this notice to announce the applicable minimum wage rate for workers performing work on or in connection with federal contracts covered by Executive Order 13658, Establishing a Minimum Wage for Contractors (the Executive Order or the Order), beginning January 1, 2022. Beginning on that date, the Executive Order 13658 minimum wage rate that generally must be paid to workers performing work on or in connection with covered contracts will increase to \$11.25 per hour, while the required minimum cash wage that generally must be paid to tipped employees performing work on or in connection with covered contracts will increase to \$7.90 per hour. Covered contracts that are entered into on or after January 30, 2022, or that are renewed or extended (pursuant to an option or otherwise) on or after January 30, 2022, will be generally subject to a higher \$15.00 minimum wage rate established by Executive Order 14026 of April 27, 2021, Increasing the Minimum Wage for Federal Contractors.

DATES: These new Executive Order 13658 rates shall take effect on January 1, 2022.

FOR FURTHER INFORMATION CONTACT: Amy DeBisschop, Director, Division of Regulations, Legislation, and Interpretation, Wage and Hour Division, U.S. Department of Labor, Room S-3502, 200 Constitution Avenue NW, Washington, DC 20210; telephone: (202) 693-0406 (this is not a toll-free number). Copies of this notice may be obtained in alternative formats (Large Print, Braille, Audio Tape, or Disc), upon request, by calling (202) 693-0023 (not a toll-free number). TTY/TTD callers may dial toll-free (877) 889-5627 to obtain information or request materials in alternative formats.

SUPPLEMENTARY INFORMATION:

I. Executive Order 13658 Background and Requirements for Determining Annual Increases to the Minimum Wage Rate

Executive Order 13658 was signed on February 12, 2014, and raised the hourly

minimum wage for workers performing work on or in connection with covered federal contracts to \$10.10 per hour, beginning January 1, 2015, with annual adjustments thereafter in an amount determined by the Secretary pursuant to the Order. *See* 79 FR 9851. The Executive Order directed the Secretary to issue regulations to implement the Order's requirements. *See* 79 FR 9852. Accordingly, after engaging in notice-and-comment rulemaking, the Department published a Final Rule on October 7, 2014 to implement the Executive Order. *See* 79 FR 60634. The final regulations, set forth at 29 CFR part 10, established standards and procedures for implementing and enforcing the minimum wage protections of the Order.

Executive Order 13658 and its implementing regulations require the Secretary to determine the applicable minimum wage rate for workers performing work on or in connection with covered contracts on an annual basis, beginning January 1, 2016. *See* 79 FR 9851; 29 CFR 10.1(a)(2), 10.5(a)(2), 10.12(a). Sections 2(a) and (b) of the Order establish the methodology that the Secretary must use to determine the annual inflation-based increases to the minimum wage rate. *See* 79 FR 9851. These provisions, which are implemented in 29 CFR 10.5(b)(2), explain that the applicable minimum wage determined by the Secretary for each calendar year shall be:

- Not less than the amount in effect on the date of such determination;
- Increased from such amount by the annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) (United States city average, all items, not seasonally adjusted), or its successor publication, as determined by the Bureau of Labor Statistics (BLS); and
- Rounded to the nearest multiple of \$0.05.

Section 2(b) of Executive Order 13658 further provides that, in calculating the annual percentage increase in the CPI-W for purposes of determining the new minimum wage rate, the Secretary shall compare such CPI-W for the most recent month, quarter, or year available (as selected by the Secretary prior to the first year for which a minimum wage is in effect) with the CPI-W for the same month in the preceding year, the same quarter in the preceding year, or the preceding year, respectively. *See* 79 FR 9851. To calculate the annual percentage increase in the CPI-W, the Department elected in its Final Rule implementing the Executive Order to compare such CPI-W for the most recent year available with the CPI-W for

the preceding year. See 29 CFR 10.5(b)(2)(iii). In its Final Rule, the Department explained that it decided to compare the CPI-W for the most recent year available (instead of using the most recent month or quarter, as allowed by the Order) with the CPI-W for the preceding year, “to minimize the impact of seasonal fluctuations on the Executive Order minimum wage rate.” 79 FR 60666.

Once a determination has been made with respect to the new minimum wage rate, Executive Order 13658 and its implementing regulations require the Secretary to notify the public of the applicable minimum wage rate on an annual basis at least 90 days before any new minimum wage takes effect. See 79 FR 9851; 29 CFR 10.5(a)(2), 10.12(c)(1). The regulations explain that the Administrator of the Department’s Wage and Hour Division (the Administrator) will publish an annual notice in the **Federal Register** stating the applicable minimum wage rate at least 90 days before any new minimum wage takes effect. See 29 CFR 10.12(c)(2)(i). Additionally, the regulations state that the Administrator will provide notice of the Executive Order minimum wage rate on Wage Determinations OnLine (WDOL), <http://www.wdol.gov>, or any successor site;¹ on all wage determinations issued under the Davis-Bacon Act (DBA), 40 U.S.C. 3141 *et seq.*, and the Service Contract Act (SCA), 41 U.S.C. 6701 *et seq.*; and by other means the Administrator deems appropriate. See 29 CFR 10.12(c)(2)(ii)–(iv).

Section 3 of Executive Order 13658 requires contractors to pay tipped employees covered by the Order performing on or in connection with covered contracts an hourly cash wage of at least \$4.90, beginning on January 1, 2015, provided the employees receive sufficient tips to equal the Executive Order minimum wage rate under section 2 of the Order when combined with the cash wage. See 79 FR 9851–52; 29 CFR 10.28(a). The Order further provides that, in each succeeding year, beginning January 1, 2016, the required cash wage must increase by \$0.95 (or a lesser amount if necessary) until it reaches 70 percent of the Executive Order minimum wage. *Id.* For subsequent years, the cash wage for tipped employees will be 70 percent of the Executive Order minimum wage rounded to the nearest \$0.05. *Id.* When a contractor is using a tip credit to meet

a portion of its wage obligations under the Executive Order, the amount of tips received by the employee must equal at least the difference between the cash wage paid and the Executive Order minimum wage; if the employee does not receive sufficient tips, the contractor must increase the cash wage paid so that the cash wage in combination with the tips received equals the Executive Order minimum wage. *Id.*

The Executive Order 13658 minimum wage and the cash wage required for tipped employees are currently \$10.95 and \$7.65 per hour, respectively. The Department announced these rates on August 31, 2020, 85 FR 53850, and the rates took effect on January 1, 2021.

II. Effect of Executive Order 14026

On April 27, 2021, President Joseph R. Biden, Jr. signed Executive Order 14026, Increasing the Minimum Wage for Federal Contractors. 86 FR 22835. Beginning January 30, 2022, Executive Order 14026 establishes a \$15.00 hourly minimum wage for the same types of contracts with the Federal Government that are covered by Executive Order 13658. However, Executive Order 14026 only applies to contracts with the Federal Government that are entered into on or after January 30, 2022, or that are renewed or extended (pursuant to an exercised option or otherwise) on or after January 30, 2022. For some amount of time, the Department therefore anticipates that there will be some existing contracts with the Federal Government that do not qualify as a covered “new contract” for purposes of Executive Order 14026 and thus will remain subject to the minimum wage requirements of Executive Order 13658.

The Department anticipates that, in the relatively near future, essentially all covered contracts with the Federal Government will qualify as “new” contracts under Executive Order 14026 and be subject to its higher minimum wage rate. Until such time, however, Executive Order 13658 and its regulations at 29 CFR part 10 must remain in place. The Department will continue announcing annual updates to Executive Order 13658’s minimum wage rates for existing contracts still covered by Executive Order 13658.

III. The 2022 Executive Order 13658 Minimum Wage Rate

Using the methodology set forth in Executive Order 13658 and summarized above, the Department must first determine the annual percentage increase in the CPI-W (United States city average, all items, not seasonally adjusted), as published by BLS, to determine the new Executive Order

13658 minimum wage rate. In calculating the annual percentage increase in the CPI-W, the Department must compare the CPI-W for the most recent year available with the CPI-W for the preceding year. The Department therefore compares the percentage change in the CPI-W between the most recent year (*i.e.*, the most recent four quarters) and the prior year (*i.e.*, the four quarters preceding the most recent year). The Department then increases the current Executive Order minimum wage rate by the resulting annual percentage change and rounds to the nearest multiple of \$0.05.

In order to determine the Executive Order 13658 minimum wage rate beginning January 1, 2022, the Department therefore calculated the CPI-W for the most recent year by averaging the CPI-W for the four most recent quarters, which consist of the first two quarters of 2021 and the last two quarters of 2020 (*i.e.*, July 2020 through June 2021). The Department then compared that data to the average CPI-W for the preceding year, which consists of the first two quarters of 2020 and the last two quarters of 2019 (*i.e.*, July 2019 through June 2020). Based on this methodology, the Department determined that the annual percentage increase in the CPI-W (United States city average, all items, not seasonally adjusted) was 2.567 percent. The Department then applied that annual percentage increase of 2.567 percent to the current Executive Order hourly minimum wage rate of \$10.95, which resulted in a wage rate of \$11.231 ($(\$10.95 \times 0.02567) + \10.95); however, pursuant to the Executive Order, that rate must be rounded to the nearest multiple of \$0.05.

The new Executive Order 13658 minimum wage rate that must generally be paid to workers performing on or in connection with covered contracts beginning January 1, 2022 is therefore \$11.25 per hour.

IV. The 2022 Executive Order 13658 Minimum Cash Wage for Tipped Employees

As noted above, section 3 of Executive Order 13658 provides a methodology to determine the amount of the minimum hourly cash wage that must be paid to tipped employees performing on or in connection with covered contracts. Because the cash wage for tipped employees reached 70 percent of the Executive Order 13658 minimum wage beginning on January 1, 2018 (*i.e.*, \$7.25 per hour compared to \$10.35 per hour), future updates to the cash wage for tipped employees must continue to set the rate at 70 percent of the full

¹ WDOL.gov moved to <https://alpha.sam.gov/content/wage-determinations>. This website is the authoritative and single location for obtaining appropriate Service Contract Act and Davis-Bacon Act wage determinations for each official contract action.

Executive Order 13658 minimum wage. Seventy percent of the new Executive Order 13658 minimum wage rate of \$11.25 is \$7.875. Because the Executive Order provides that the rate must be rounded to the nearest \$0.05, the new minimum hourly cash wage for tipped workers performing on or in connection with covered contracts beginning January 1, 2022 is therefore \$7.90 per hour.

V. Appendix

The Appendix to this notice provides a comprehensive chart of the CPI–W data published by BLS that the Department used to calculate the new Executive Order 13658 minimum wage rate based on the methodology explained herein.

Dated: September 9, 2021.

Jessica Looman,

Acting Administrator, Wage and Hour Division.

Appendix: Data Used To Determine Executive Order 13658 Minimum Wage Rate Effective January 1, 2022

Data Source: Consumer Price Index for Urban wage Earners and Clerical Workers (CPI–W) (United States city average, all items, not seasonally adjusted).

| | Quarter 3 | | | Quarter 4 | | | Quarter 1 | | | Quarter 2 | | | Annual average |
|-------------------------------|-----------|---------|---------|-----------|---------|---------|-----------|---------|---------|-----------|---------|---------|----------------|
| 2019Q3 to 2020Q2 | 250.236 | 250.112 | 250.251 | 250.894 | 250.644 | 250.452 | 251.361 | 251.935 | 251.375 | 249.515 | 249.521 | 251.054 | 250.6125 |
| 2020Q3 to 2021Q2 | 252.636 | 253.597 | 254.004 | 254.076 | 253.826 | 254.081 | 255.296 | 256.843 | 258.935 | 261.237 | 263.612 | 266.412 | 257.0463 |
| Annual Percentage Increase .. | | | | | | | | | | | | | 2.567% |

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PENSION BENEFIT GUARANTY CORPORATION

Submission of Information Collection for OMB Review; Comment Request; Survey of Multiemployer Pension Plan Withdrawal Liability Information

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of request for extension of OMB approval of information collection.

SUMMARY: The Pension Benefit Guaranty Corporation (PBGC) is requesting that the Office of Management and Budget (OMB) extend approval under the Paperwork Reduction Act, of a survey of terminated and insolvent multiemployer pension plans to obtain withdrawal liability information. PBGC needs the withdrawal liability information to estimate its multiemployer program liabilities for purposes of its financial statements. This notice informs the public of PBGC's request and solicits public comment on the collection of information.

DATES: Comments must be submitted on or before October 18, 2021.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function.

A copy of the request will be posted on PBGC's website at www.pbgc.gov/

prac/laws-and-regulation/federal-register-notices-open-for-comment. It may also be obtained without charge by writing to the Disclosure Division of the Office of the General Counsel of PBGC, 1200 K Street NW, Washington, DC 20005–4026; or, calling 202–229–4040 during normal business hours (TTY users may call the Federal Relay Service toll-free at 800–877–8339 and ask to be connected to 202–229–4040).

FOR FURTHER INFORMATION CONTACT: Hilary Duke (duke.hilary@pbgc.gov), Assistant General Counsel for Regulatory Affairs, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW, Washington, DC 20005–4026, 202–229–3839. (TTY users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–229–3839.)

SUPPLEMENTARY INFORMATION: When a contributing employer withdraws from an underfunded multiemployer pension plan, the plan sponsor assesses withdrawal liability against the employer. The plan sponsor is required to determine and collect withdrawal liability in accordance with section 4219 of the Employee Retirement Income Security Act of 1974 (ERISA). The plan sponsor assesses withdrawal liability by issuing a notice to an employer, including the amount of the employer's liability and a schedule of payments. PBGC's regulation on Notice, Collection, and Redetermination of Withdrawal Liability (29 CFR part 4219) requires the plan sponsor to file with PBGC a certification that notices have been provided to employers.

PBGC collects information about withdrawal liability that is owed by

withdrawn employers of terminated¹ and insolvent² multiemployer pension plans. PBGC distributes annual surveys that newly insolvent plans receiving financial assistance and newly terminated plans not yet receiving financial assistance are required to complete and return to PBGC. Smaller plans with less than 500 participants are not required to complete the survey. PBGC needs the information from the survey about withdrawal liability payments and settlements, and whether employers have withdrawn from the plan but have not yet been assessed withdrawal liability, to estimate with more precision PBGC's multiemployer program liabilities for purposes of its financial statements.³ PBGC also uses the information for its Multiemployer Pension Insurance Modelling System assumptions on collection of withdrawal liability. Information provided to PBGC is confidential to the extent provided in the Freedom of Information Act and the Privacy Act.

The existing collection of information was approved under OMB control number 1212–0071 (expires November 30, 2021). On June 23, 2021, PBGC published in the **Federal Register** (at 86

¹ Under section 4041A(f)(2) of ERISA, PBGC may prescribe reporting requirements for terminated multiemployer pension plans, which PBGC considers appropriate to protect the interests of plan participants and beneficiaries or to prevent unreasonable loss to the corporation.

² Under section 4261(b)(1) of ERISA, PBGC provides financial assistance under such conditions as the corporation determines are equitable and are appropriate to prevent unreasonable loss to the corporation with respect to the plan.

³ Section 4008 of ERISA requires the corporation, as soon as practicable after the close of each fiscal year, to transmit a report to the President and the Congress, including financial statements setting forth the finances of the corporation at the end of the fiscal year and the result of its operations (including the source and application of its funds) for the fiscal year.