

CLIENT ALERT

New Federal Contractor Minimum Wage Hike Heads to Court

February 11, 2022

On February 8, 2022, just days after the Department of Labor’s (“DOL”) Final Rule “[Increasing the Minimum Wage for Federal Contractors](#),” implementing [Executive Order \(“EO”\) 14026](#), went into effect, five states – Arizona, Idaho, Indiana, Nebraska and South Carolina – [filed a lawsuit](#) – in Arizona federal district court, seeking, among other things, a court order invalidating the federal contractor minimum wage Final Rule and EO 14026. As we [have covered previously](#), EO 14026 and DOL’s implementing Final Rule require a \$15 hourly minimum wage increase for some, but not all, federal contractor and subcontractor employees on new contracts or existing contracts that renewed after January 30, 2022. These five states argue that EO 14026 exceeds the President’s authority under the Federal Property and Administrative Services Act (“FPASA”) and that Congress has not otherwise delegated authority to the Executive Branch to enact a rule with such wide-sweeping effects on the American economy. By way of example, the States argue that since the current minimum wage in Arizona is \$12.80, Nebraska is \$9, Idaho and Indiana are \$7.25, and South Carolina does not have a state-specific minimum wage, this rule imposes a high economic cost on federal contractors in their respective states. The plaintiff States are seeking, among other things, a nationwide injunction of the Final Rule and EO 14026.

Two days later, on February 10, 2022, Texas, Louisiana, and Mississippi, [filed a similar challenge](#) to the Final Rule and EO 14026 in Texas federal district court. Notably, in this case, the plaintiff States are only seeking an injunction as to the enforcement of the Final Rule and EO 14026 against federal contractors operating in their respective jurisdictions.

We will continue to watch these cases, amongst other potential litigation developments, related to the implementation of this Final Rule and EO 14026.

For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.

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