



Fact Sheet: Proposed Rulemaking on Section 14(c) of the FLSA

Summary of Notice of Proposed Rulemaking

On December 3, 2024, the Department of Labor (DOL) issued a notice of proposed rulemaking (NPRM) regarding [Employment of Workers With Disabilities Under Section 14\(c\) of the Fair Labor Standards Act](#), which would phase out the use of certificates granted under section 14(c) of the Fair Labor Standards Act that allows employers to pay workers with disabilities below the Federal minimum wage. The rule would prohibit the issuance of new section 14(c) certificates on or after the rule's effective date while permitting existing certificate holders to continue to operate under their certificate authority for up to three years following the rule's effective date. The comment period for the proposed rule closes on January 17, 2025.

Background

The Fair Labor Standards Act (FLSA) generally requires that employees be paid at least the Federal minimum wage, currently \$7.25 per hour, for every hour worked and at least one and one-half times their regular rate of pay for each hour worked over 40 in a single workweek. Section 14(c) of the FLSA authorizes the Secretary of Labor to issue certificates allowing employers to pay subminimum wages to workers with disabilities, but only if such certificates are necessary to prevent the curtailment of opportunities for employment. The Department first promulgated regulations governing the issuance of section 14(c) certificates in 1938, and last substantively updated them in 1989.

In 2001, the Government Accountability Office (GAO) estimated that approximately 424,000 workers with disabilities were paid subminimum wages. As of May 1, 2024, that number had dropped to approximately 40,579 workers with disabilities being paid subminimum wages by employers with issued certificates—approximately a 90 percent decline.¹

Overview of Key Components

The proposed rule concludes that 14(c) certificates are no longer necessary to meet the congressional intent of preventing curtailment of employment opportunities for individuals with disabilities and proposes to cease the issuance of new certificates as well as phase out the renewal of existing certificates over a three-year period.

After the effective date, no additional 14(c) certificates would be issued. During the three-year phase out period, employers seeking renewal certificates authorizing the employment of workers with disabilities at special minimum wage rates would be required to provide the following written assurances concerning such employment:

¹ The 2024 number does not include workers who are paid subminimum wages under pending section 14(c) certificates.

(1) In the case of individuals paid hourly rates, the special minimum wage rates will be reviewed by the employer at periodic intervals at a minimum of once every six months; and,

(2) Wages for all employees will be adjusted by the employer at periodic intervals at a minimum of once each year to reflect changes in the prevailing wages paid to experienced nondisabled individuals employed in the locality for essentially the same type of work.

DOL is also requesting comment as to whether the three-year phaseout period should be shorter or longer and whether it would be appropriate to grant one-time extensions for current certificate holders that demonstrate good cause. Further, to the extent DOL determines there is a need for such an extension period, it is seeking comment on what the extension's scope, structure, and length should entail.

Submitting Comments

Comment submissions are due by 11:59 p.m. (ET) on January 17, 2025. While ANCOR will be submitting comments on this proposed rule, you may also wish to submit comments to DOL directly on behalf of your organization.

DOL is accepting comments via either of the following methods:

- **Electronic Comments** may be submitted by clicking on the following link: [Comment on Employment of Workers With Disabilities Under Section 14\(c\) of the FLSA Proposed Rule](#). Complete the required fields and click the "Submit Comment" button at the bottom of the page.
- **Mailed Comments** should be addressed and sent to: 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.

Whether submitting comments electronically or via mail, please remember to clearly reference the proposed rule, RIN 1235-AA14, Employment of Workers With Disabilities Under Section 14(c) of the Fair Labor Standards Act.

Contact: Have questions or thoughts for ANCOR? Email Tom Rice, Director of Policy and Regulatory Affairs at trice@ancor.org.