by reference is effective September 15, 2026, through September 15, 2027. During the incorporation by reference period, proposed changes to the listings of Class A, B, C, D, and E airspace areas; air traffic service routes; and reporting points will be published in full text as proposed rule documents in the **Federal Register**, unless there is good cause to forego notice and comment. Amendments to the listings of Class A, B, C, D, and E airspace areas; air traffic service routes; and reporting points will be published in full text as final rules in the **Federal Register**. Periodically, the final rule amendments will be integrated into a revised edition of the Order and submitted to the Director of the Federal Register for approval for incorporation by reference in this section. This IBR material is available for inspection at the Federal Aviation Administration (FAA) and at the National Archives and Records Administration (NARA). Contact the FAA at: Rules and Regulations Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591, (202) 267–8783. An electronic version of FAA Order JO 7400.11M is available on the FAA website at *www.faa.gov/air_traffic/publications.* Copies of FAA Order JO 7400.11M may be inspected in Docket No. FAA–2026–8845 on *www.regulations.gov.* For information on the availability of this material at NARA, visit *www.archives.gov/federalregister/cfr/ibr-locations* or email *fr.inspection@nara.gov.*

§ 71.5 [Amended]

■ 3. Amend § 71.5 by removing the text ''FAA Order JO 7400.11K'' and adding, in its place, the text ''FAA Order JO 7400.11M''.

§ 71.15 [Amended]

■ 4. Amend § 71.15 by removing the text ''FAA Order JO 7400.11K'' wherever it appears and adding, in its place, the text ''FAA Order JO 7400.11M''.

§ 71.31 [Amended]

■ 5. Amend § 71.31 by removing the text ''FAA Order JO 7400.11K'' and adding, in its place, the text ''FAA Order JO 7400.11M''.

§ 71.33 [Amended]

■ 6. Amend § 71.33(c) by removing the text ''FAA Order JO 7400.11K'' and adding, in its place, the text ''FAA Order JO 7400.11M''.

§ 71.41 [Amended]

■ 7. Amend § 71.41 by removing the text ''FAA Order JO 7400.11K'' wherever it appears and adding, in its place, the text ''FAA Order JO 7400.11M''.

§ 71.51 [Amended]

■ 8. Amend § 71.51 by removing the text ''FAA Order JO 7400.11K'' wherever it appears and adding, in its place, the text ''FAA Order JO 7400.11M''.

§ 71.61 [Amended]

■ 9. Amend § 71.61 by removing the text ''FAA Order JO 7400.11K'' wherever it appears and adding, in its place, the text ''FAA Order JO 7400.11M''.

§ 71.71 [Amended]

■ 10. Amend § 71.71(b) through (f) by removing the text ''FAA Order JO 7400.11K'' wherever it appears and adding, in its place, the text ''FAA Order JO 7400.11M''.

§ 71.901 [Amended]

■ 11. Amend § 71.901(a) by removing the text ''FAA Order JO 7400.11K'' and adding, in its place, the text ''FAA Order JO 7400.11M''.

Issued in Washington, DC, on August 26, 2026.

Alex W. Nelson,

Manager, Rules and Regulations Group.

[FR Doc. 2026–17689 Filed 8–28–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Part 523

[BOP–1183–I]

RIN 1120–AB83

First Step Act Time Credits—Revisions

AGENCY: Bureau of Prisons, Justice.

ACTION: Interim final rule; request for comments.

SUMMARY: The Bureau of Prisons (BOP) amends its First Step Act (FSA) Time Credits regulation to accord with the best reading of the FSA and to conform with recent case law trends. The first change clarifies when an inmate can begin to earn time credits, and the second change clarifies time credits eligibility for inmates serving a term of imprisonment imposed in a foreign country.

DATES:

Effective date: This rule is effective September 30, 2026.

Comments: Written comments must be postmarked and electronic comments must be submitted on or before September 30, 2026.

ADDRESSES: You may submit comments using one of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Commenters should be aware that the electronic Federal Docket Management System will not accept comments after Midnight Eastern Time on the last day of the comment period.
- *Mail:* Office of General Counsel, Attn: LCI/Rules Administrator, Federal Bureau of Prisons, 320 First Street NW, Washington, DC 20534. *Reference ''FSA Time Credits rule'' on the first page of the written comment.*

Comments will be made available to the public online at *https://www.regulations.gov.* Do not include any personally identifiable or confidential information that you do not want publicly disclosed. Anonymous comments are acceptable.

FOR FURTHER INFORMATION CONTACT: Whittington C. Wiman, Rules Administrator, Federal Bureau of Prisons, at the address above or at (202) 353–4885.

SUPPLEMENTARY INFORMATION:

I. Discussion of Rulemaking

The goal of this rulemaking is to amend two sections of the First Step Act (FSA) Time Credits regulation to accord with the best reading of the FSA and to conform with recent case law trends. On January 19, 2022, the Bureau of Prisons (BOP) codified its procedures regarding the earning and application of time credits as authorized by the FSA (hereinafter, ''FSA Time Credits'' or ''Time Credits''), which provides that eligible inmates earn Time Credits toward prerelease custody or early transfer to supervised release for successfully completing certain approved programs or activities assigned to each inmate based on the inmate's risk and needs assessments.

On February 19, 2025, President Donald J. Trump issued Executive Order (E.O.) 14219, ''Ensuring Lawful Governance and Implementing the President's 'Department of Government Efficiency' Deregulatory Initiative,'' which directs all executive agencies to identify certain ''classes of regulations'' enumerated in Section 2(a) of the E.O. and subject to certain exemptions in Section 7. 90 FR 10583 (Feb. 25, 2025). Pursuant to that executive order, BOP reviewed its regulations and identified two sections of its FSA Time Credits regulation as ones to which revisions should be made to ensure the regulatory scheme is based on the best reading of the underlying statutory authority.

The first change removes the parenthetical clause from 28 CFR

523.42(a), which provides that a ''term of imprisonment commences'' (and thus an inmate may begin to earn Time Credits) on ''the date the inmate arrives or voluntarily surrenders at the designated Bureau facility where the sentence will be served.'' BOP believes this portion of the paragraph should be removed to accord with the best reading of the FSA and to conform with recent court decisions that have concluded this language conflicts with the FSA. *See, e.g., Miles* v. *Bowers,* 173 F.4th 372, 379 (1st Cir. Apr. 27, 2026) (finding the regulation's view of when a sentence commences ''plainly conflicts with the text of the FSA''); *Sharma* v. *Peters,* 756 F. Supp. 3d 1271, 1281–82 (M.D. Ala. 2024) (concluding that 28 CFR 523.42 ''adds a layer of eligibility not found in the statute'' and thus ''conflicts with its express language''); *Davidovic* v. *Warden, FCC Coleman-Low,* No. 24-cv-86, at 5 (M.D. Fla. May 2, 2025) (''Thus, the BOP's regulation that adds a layer of eligibility not found in the statute conflicts with its express language.''); *Heath* v. *Knight,* No. 22–CV–7270, 2024 WL 5198863, at *5 & n.9 (D.N.J. Dec. 23, 2024) (concluding that ''BOP's interpretation in 28 CFR 523.42(a) . . . conflicts with the plain meaning of the statute,'' and citing district court decisions holding the same from the Central District of California, District of Minnesota, District of Massachusetts, Eastern District of California, Western District of Washington, District of Hawaii, and the District of New Hampshire); *Anderson* v. *FPC Yankton,* No. 4:23–CV–04136–ECS, 2024 WL 4993680, at *2 (D.S.D. Nov. 26, 2024) (collecting cases and ''tending to agree'' but not ruling until jurisdiction was resolved).

With the parenthetical clause removed, the paragraph provides that ''[a]n eligible inmate begins earning FSA Time Credits after the inmate's term of imprisonment commences.'' This change aligns the regulatory text with the long-established rule that a sentence to a term of imprisonment commences on the date the defendant is received in custody awaiting transportation to, or voluntarily arrives at, the official detention facility at which the sentence is to be served. 18 U.S.C. 3585(a). The underlying principle of § 3585(a) is that a federal sentence commences when the defendant is received by the Attorney General of the United States [1] for service of his federal sentence, whether through remand immediately after federal sentencing, or upon the date on which the defendant voluntarily surrenders to the official detention facility where the sentence is to be served. *Rashid* v. *Quintana,* 372 F. App'x 260, 262 (3d Cir. 2010) (''A federal sentence commences when the defendant is received by the Attorney General for service of his federal sentence.''). A sentence cannot begin prior to the date on which it is imposed. *United States* v. *Gonzalez,* 192 F.3d 350 (2d Cir. 1999); *see United States* v. *Flores,* 616 F.2d 840, 841 (5th Cir. 1980) (''[A] federal sentence cannot commence prior to the date it is pronounced, even if made concurrent with a sentence already being served.''); *United States* v. *Tancil,* 817 F.App'x 234, 237 (7th Cir. 2020) (''[A] district judge may not backdate a sentence.''). Therefore, by removing the parenthetical, we leave intact the understanding that a term of imprisonment begins either (1) on the date the defendant is received in custody pending transportation to the designated facility where the sentence will be served, or (2) on the date the defendant voluntarily surrenders at the institution where the sentence will be served.

This change furthers the FSA's goal of providing inmates access to programs and activities proven to reduce their likelihood of recidivating. Specifically, removing the parenthetical allows inmates awaiting transportation to their designated facilities to begin FSA-approved programming, the successful completion of which may earn eligible inmates Time Credits. However, this change does not mean that every eligible inmate will automatically begin earning Time Credits immediately after their sentence is imposed. In accordance with the FSA and its implementing regulations, to earn Time Credits, the inmate must still complete evidence-based recidivism reduction (EBRR) programming or productive activities assigned to them based on their assessed needs. 18 U.S.C. 3632(d)(4)(A); 28 CFR 523.42(b)(3).

The second change addresses the eligibility of prisoners transferred to BOP custody from foreign countries to earn Time Credits.[2] This change adds a concluding sentence to 28 CFR 523.44(a)(3), which addresses ''[s]erving a term of imprisonment pursuant to a conviction for an offense under laws other than the U.S. Code . . . .'' The new sentence clarifies that Time Credits can be applied for inmates serving a term of imprisonment imposed in a foreign country so long as the U.S. Parole Commission has determined an equivalent U.S. Code sentence exists under 18 U.S.C. 4106A. At least one federal court agrees that inmates serving a foreign sentence that, when evaluated for its equivalent U.S. Code section and qualifies as eligible, is eligible for Time Credits. *Martinez* v. *Rosalez,* No. 23–50406, 2024 WL 140438 (5th Cir. Jan. 12, 2024). BOP's current practice is consistent with the regulatory change, so the amendment would codify that practice and ensure the regulation accords with the best reading of the FSA.

This change also furthers the FSA's goal of preparing inmates to successfully re-enter their communities within the United States by allowing treaty transfer inmates—who must be a citizen or national of the United States under 18 U.S.C. 4100(b)—the same resources as other inmates under the FSA so they can reintegrate back into society. Through treaties, U.S. citizens or nationals who commit crimes and are sentenced in foreign countries may serve their terms of imprisonment in BOP custody so they can avail themselves of programming and reentry-related activities that strengthen ties to their local communities and reduce the risk of recidivism. Therefore, by no longer excluding treaty transfer inmates from FSA eligibility based solely on their foreign convictions, we are improving public safety by incentivizing risk-reduction programming.

II. Regulatory Certifications

Executive Orders 12866 and 13563—Regulatory Review

The Department has determined that this rulemaking is a ''significant regulatory action'' under subsection 3(f) of Executive Order 12866, ''Regulatory Planning and Review''. Accordingly, this interim final rule has been submitted to the Office of Management and Budget (OMB) for review. This interim final rule has been drafted and reviewed in accordance with Executive Order 12866, ''Regulatory Planning and Review,'' subsection 1(b), Principles of Regulation, and Executive Order 13563, ''Improving Regulation and Regulatory Review,'' subsection 1(b), General Principles of Regulation.

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health, and safety effects, distributive impacts, and

[1] Title 18 U.S.C. 3621 explicitly vests the Attorney General's designation authority in the BOP.

[2] Pursuant to Public Law 95–144 (18 U.S.C. 4001 *et seq.*), BOP is authorized to receive custody of offenders who are convicted and sentenced in foreign countries, so long as there is a treaty in place between the United States and that country.

equity). Executive Order 13563 emphasizes the importance of using the best available methods to quantify costs and benefits, reducing costs, harmonizing rules, and promoting flexibility.

As shown in the table below, BOP projects that expansion of Time Credits will result in net savings of millions of taxpayer dollars because less time in a BOP institution or in a Residential Community Center (RRC) or on Home Confinement (HC) equates to cost savings. Current estimates show that thousands of inmates will benefit from eligibility expansion and be able to leave a BOP institution and transfer to an RRC or HC sooner than they would without these regulatory changes.

AVERAGE LENGTH OF TIME TO DESIGNATION AND AVERAGE POTENTIAL TIME CREDITS FOR FSA ELIGIBLE INMATES WITH ANNUAL ESTIMATED SAVINGS

	Inmates	Avg days	Daily cost	Potential savings per	Potential saving total
Length of Time to Designation		66.06			
FTCs Toward RRC/HC	7,554	23.81	10.61	253	1,908,322
FTCs Toward Supervised Release (RRC)	11,258	23.81	119.73	2,850.77	32,093,983
FTCs Toward Supervised Release (BOP Facility)	6,486	23.81	130.34	3,103.40	20,128,623
Total Potential Savings for Additional Time Credits					54,130,928

Avg time from sentencing to designation (66.06 days) results in an average of 23.81 days of Time Credits.
Total daily cost for all typical facilities = $130.34.
Total daily cost for RRC/HC = $119.73. Cost savings of transfer to RRC/HC = $10.61/day.
Daily cost obtained from the current published Annual Determination of Average Cost of Incarceration Fee (COIF).
Number of Inmates = Annual average FSA-eligible transfers to RRC & supervised release 2023-2025.

The time an inmate spends in transit before arriving at their designated BOP facility, after the federal sentence is imposed, can vary widely based on the difference between the starting and ending locations as well as the capacity and availability of air and bus routes. An analysis of the transit times for newly committed inmates with sentences starting from 2023 through 2025 found the average length of time from sentencing to arrival at the designated facility to be 66.06 days. At the time of sentencing, inmates are in the custody of the United States Marshals Service (USMS) and may be housed in local, county, and regional jails or federal detention centers. The above analysis of transit time included all facilities utilized by USMS.

Inmates accrue Time Credits at a rate of 10 or 15 days for every 30 days of successful participation in EBRR programming or productive activities based on their individual calculated recidivism risk level. Inmates determined to be at a minimum or low risk for recidivating and maintain or decrease their risk level over two consecutive assessments earn 15 Time Credits for every 30 days of participation. Inmates with a medium or high risk for recidivating or who have not maintained a low risk for two consecutive assessments earn 10 days of Time Credits for every 30 days of participation. Based on the current risk levels in the BOP population, the average time of 66.06 days spent in transit would result in 23.81 days of Time Credits.

For inmates with a low or minimum risk of recidivism, the first 365 days of accrued Time Credits are applied to an inmate's calculated statutory release date for early release to supervision if the sentencing court included a requirement that the inmate be placed on a term of supervised release after imprisonment as part of the inmate's sentence. For inmates with a low or minimum risk of recidivism without a term of imprisonment, and/or for Time Credits accrued in excess of 365 days, inmates can be transferred to prerelease custody in a RRC or HC when the Time Credits are equal to the remainder of the imprisonment term.

As shown in the above table, an analysis of inmates earning Time Credits who were released from BOP custody from 2023 through 2025 identified three categories of application of Time Credits for transfer and release: (1) Time Credits applied toward transfer to prerelease custody (RRC or HC) for inmates without a term of supervision (which averaged 7,554 inmates annually); (2) Time Credits applied toward supervised prerelease custody and early supervised release (which averaged 11,258 inmates annually); and (3) Time Credits applied toward early supervised release whereby inmates release from a typical BOP facility (which averaged 6,486 inmates annually). The expansion of Time Credits would result in savings by allowing inmates to transfer to prerelease custody (RRC or HC) an average of 23.81 days earlier, or result in inmates releasing to a term of supervised release earlier.

According to BOP's 2024 Cost of Incarceration Fee (COIF), the average per capita cost for an inmate in a secure facility is $130.34 and the per capita cost for prerelease custody is $119.73. The savings for transferring inmates from secure facilities to RRCs or HCs is $10.61 per day. Applying these per capita amounts to the three categories of inmates receiving an additional 23.81 days of Time Credits results in the following potential savings: (1) $1,908,322 for additional Time Credits applied toward transfer to prerelease custody at $10.61 reduced cost for 23.81 days for 7,554 inmates annually; (2) $32,093,983 for additional Time Credits applied toward early supervised release from an RRC at $119.73 reduced cost for 23.81 days for 11,258 inmates annually; and (3) $20,128,623 for additional Time Credits applied toward early supervised release from a typical BOP facility at $130.34 reduced cost for 23.81 days for 6,486 inmates annually. Accordingly, far from increasing costs, the expansion of Time Credits is projected to reduce overall costs in the estimated amount of $54,130,928.

Executive Order 14192—Regulatory Costs

Executive Order 14192 (Unleashing Prosperity Through Deregulation) requires an agency, unless prohibited by law, to identify at least ten existing regulations to be repealed or revised when the agency publicly proposes for notice and comment or otherwise promulgates a new regulation that qualifies as an Executive Order 14192 regulatory action (defined in OMB Memorandum M–25–20 as a final significant regulatory action as defined in section 3(f) of Executive Order 12866 that imposes total costs greater than zero). In furtherance of this requirement, section 3(c) of Executive Order 14192 requires that any new incremental costs associated with such new regulations must, to the extent permitted by law, also be offset by eliminating existing costs associated with at least ten prior regulations. Although this rule would be a significant regulatory action as defined by Executive Order 12866, it would not count as an Executive Order 14192 regulatory action because it has total costs less than zero. This rule expands the accrual period of Time Credits and reduces the amount of time inmates spend in BOP facilities, producing cost savings. BOP therefore expects this rule to qualify as an Executive Order 14192 deregulatory action (defined in OMB Memorandum M–25–20 as a final action that imposes total costs less than zero).

Executive Order 14294—Fighting Overcriminalization of Federal Regulations

Executive Order 14294 ''Fighting Overcriminalization in Federal Regulations'' directs agencies promulgating regulations with criminal regulatory offenses potentially subject to criminal enforcement to explicitly describe the conduct subject to criminal enforcement, the authorizing statutes, and the mens rea standard applicable to each element of those offenses. For the purposes of Executive Order 14294, the phrase ''criminal regulatory offense'' means a regulation that purports to impose a penalty of imprisonment without a connection to a statute that itself authorizes such a penalty. The phrase does not include regulations implementing a statutory scheme in which a statute contains a criminal penalty (*i.e.,* imprisonment) and authorizes an agency to define by regulation what specific conduct is prohibited. This rule does not impose a penalty of imprisonment that is not authorized by statute and is thus exempt from Executive Order 14924 requirements.

Executive Order 13132—Federalism

This interim final rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, it is determined that this interim final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Executive Order 12988—Civil Justice Reform (Plain Language)

This interim final rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988 to specify provisions in clear language. Pursuant to section 3(b)(1)(I) of the Executive Order, nothing in this interim final rule or any previous rule (or in any administrative policy, directive, ruling, notice, guideline, guidance, or writing) directly relating to the Program that is the subject of this interim final rule is intended to create any legal or procedural rights enforceable against the United States.

Administrative Procedure Act, 5 U.S.C. 553

The Administrative Procedure Act (5 U.S.C. 553(b) (B)) allows exceptions to notice-and-comment rulemaking ''when the agency for good cause finds . . . that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.'' Further, 5 U.S.C. 553(d) provides an exception to the usual requirement of a delayed effective date for a substantive rule that relieves a restriction, or when the agency finds ''good cause'' that the rule be made immediately effective. This rulemaking is exempt from normal notice-and-comment procedures because advance notice in this instance is unnecessary. The first change conforms to recent court decisions that have concluded the excised language conflicts with the FSA, and the second change codifies a non-controversial practice already in place and thus is insignificant in nature and impact.

Further, these two changes are purely beneficial to the inmate population by expanding the time frame of when Time Credits begin to accrue and who may be eligible to earn them. As such, they ''relieve a restriction.'' (5 U.S.C. 553(d)(1)).

Accordingly, BOP finds good cause for exempting this interim final rule from the provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring prior notice of proposed rulemaking and delay in effective date. Nevertheless, BOP is accepting post-promulgation public comments.

Unfunded Mandates Reform Act of 1995

This interim final rule will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more in any one year (adjusted for inflation), and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Regulatory Flexibility Act

The Director has reviewed this regulation in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)) and has determined that this interim final rule will not have a significant economic impact on a substantial number of small entities. This rule is limited to Bureau-appropriated funds and affects individual inmates only, not small entities. Further, a regulatory flexibility analysis is not required when the agency is not required to publish a general notice of proposed rulemaking, as is the case here. 5 U.S.C. 601(2), 604(a).

Congressional Review Act

This regulation is not a ''major rule'' as defined by the Congressional Review Act, 5 U.S.C. 804(2).

List of Subjects in 28 CFR Part 523

First Step Act, Prisoners, Sentence computation.

Accordingly, under rulemaking authority vested in the Attorney General in 5 U.S.C. 301; 28 U.S.C. 509, 510 and delegated to the Director of the Bureau of Prisons in 28 CFR 0.96, the Bureau amends 28 CFR part 523 as follows:

PART 523—COMPUTATION OF SENTENCE

■ 1. The authority citation for 28 CFR Part 523 continues to read as follows:

Authority: 5 U.S.C. 301; 18 U.S.C. 3568 (repealed November 1, 1987, as to offenses committed on or after that date), 3621, 3622, 3624, 3632, 3635, 4001, 4042, 4081, 4082 (repealed in part as to conduct occurring on or after November 1, 1987), 4161–4166 (repealed October 12, 1984, as to offenses committed on or after November 1, 1987), 5006–5024 (repealed October 12, 1984, as to conduct occurring after that date), 5039; 28 U.S.C. 509, 510.

Subpart E—First Step Act Time Credits

■ 2. In § 523.42, revise paragraph (a) to read as follows:

§ 523.42 Earning First Step Act Time Credits.

(a) *When an eligible inmate begins earning FSA Time Credits.* An eligible inmate begins earning FSA Time Credits after the inmate's term of imprisonment commences.

* * * * *

■ 3. In § 523.44, revise paragraph (a)(3) to read as follows:

§ 523.44 Application of FSA Time Credits.

(a) * * *

(3) Serving a term of imprisonment pursuant to a conviction for an offense

under laws other than the U.S. Code (see Section 105 of the FSA, Public Law 115–391, 132 Stat. 5214 (not codified; included as note to 18 U.S.C. 3621)), the Bureau may not apply FSA Time Credits toward prerelease custody or early transfer to supervised release. This paragraph (a)(3) will not bar the application of FSA Time Credits, as authorized by the DC Code, for those serving a term of imprisonment for an offense under the DC Code. This paragraph will not bar the application of FSA Time Credits for those inmates serving a term of imprisonment imposed in a foreign country and for which the U.S. Parole Commission has determined an equivalent U.S. Code sentence under 18 U.S.C. 4106A.

* * * * *

William K. Marshall III,

Director, Federal Bureau of Prisons.

[FR Doc. 2026–17752 Filed 8–28–26; 8:45 am]

BILLING CODE 4410–05–P

DEPARTMENT OF LABOR

29 CFR Part 42

Employment and Training Administration

[Docket No. ETA–2025–0003]

RIN 1205–AC27

Wage and Hour Division

RIN 1235–AA50

Occupational Safety and Health Administration

RIN 1218–AD53

Rescission of Coordinated Enforcement Regulations

AGENCY: Employment and Training Administration; Wage and Hour Division; Occupational Safety and Health Administration, Labor.

ACTION: Final rule.

SUMMARY: The Department of Labor (Department) is rescinding the regulations that established formal procedures for coordination of enforcement activities among the Wage and Hour Division (WHD), Occupational Safety and Health Administration (OSHA), and Employment and Training Administration (ETA) with respect to migrant and seasonal farmworkers. The Department is rescinding these regulations because they are obsolete, no longer reflect the Department's organizational structure or operational practices, and are not needed for effective coordination among the relevant component agencies. This action will remove unnecessary regulatory burden and align the Department's enforcement strategy with modern, effective, and flexible coordination models already in use.

DATES: This final rule is effective September 30, 2026.

FOR FURTHER INFORMATION CONTACT: For further information regarding responsibilities of the Employment and Training Administration, contact Kimberly Vitelli, Administrator, Office of Workforce Investment, Employment and Training Administration, Department of Labor, Room C–4526, 200 Constitution Avenue NW, Washington, DC 20210. For further information regarding responsibilities of the Wage and Hour Division, contact Daniel Navarrete, Wage and Hour Division, Department of Labor, Room S–3502, 200 Constitution Avenue NW, Washington, DC 20210, telephone: (202) 693–0406 (this is not a toll-free number). For further information regarding responsibilities of the Occupational Safety and Health Administration, contact Erin Gilmore, Occupational Safety and Health Administration, Department of Labor, Room N–3107, 200 Constitution Avenue NW, Washington, DC 20210, telephone: (202) 693–2100 (this is not a toll-free number). For persons with a hearing or speech disability who need assistance using the telephone system, please dial 711 to access telecommunications relay services.

SUPPLEMENTARY INFORMATION:

I. Background and History

The Department promulgated the regulations at 29 CFR part 42 (Part 42) in 1980 to improve coordination among its component agencies in enforcing protections for migrant farmworkers.[1] The purpose of the regulations is to coordinate activities of the component agencies and to ensure effective enforcement efforts under ''the protective statutes,'' which included the Farm Labor Contractor Registration Act (FLCRA) (later repealed),[2] the Occupational Safety and Health Act, and the Fair Labor Standards Act, in order to ''maximize . . . effectiveness, yet minimize unnecessary duplication.'' 29 CFR 42.2. Specifically, the regulations require the Department to establish and maintain several processes and structures, including: (1) a National Farm Labor Coordinated Enforcement Committee (National Committee) with membership by the Under Secretary of Labor (now the Deputy Secretary),[3] the Solicitor of Labor, ETA, OSHA, and the Employment Standards Administration (ESA, a now-defunct agency that incorporated WHD at the time the Department promulgated Part 42),[4] and supported by a staff level working group, to review the subagencies' policies and enforcement strategies; (2) Regional Farm Labor Coordinated Enforcement Committees (Regional Committees); and (3) the development of enforcement strategies and coordination plans, both regionally and nationally. In addition, the regulations require the Department to designate Farm Labor Specialists in WHD and Compliance Officers in OSHA to serve as farm labor contact persons, and to collect and review specific data pertaining to enforcement of protective statutes to be reviewed by the National Committee and to be used to inform future agency efforts. The regulations also prescribe specific frequency of meetings for the National Committee and the Regional Committees, and public attendance at certain of these meetings.

For at least a decade after promulgating Part 42 in 1980, the Department maintained a National Committee and Regional Committees as prescribed in the regulations. The Department subsequently largely ceased maintaining those formal committees, although available records do not establish precisely when that occurred. Rather, as explained in more detail later in this preamble, the Department has since implemented more effective mechanisms that do not rely on the specific structures of Part 42 to ensure coordinated enforcement of the current migrant farmworker laws by WHD, ETA, and OSHA.

In 2024, a number of advocacy organizations—including commenter Sin Fronteras Organizing Project—filed a lawsuit alleging that the Department had failed to comply with Part 42. That litigation resulted in a settlement agreement in which the Department agreed to take certain steps to reconstitute the National Committee and Regional Committees and hold public

[1] The regulation arose partly in response to litigation filed in the 1970s. *See* 45 FR 39486 (June 10, 1980) (stating that Part 42 represents part of a settlement agreement concluding litigation in *National Ass'n for the Advancement of Colored People (NAACP), Western Region* v. *Brennan,* No. 2010–72 (D.D.C.)).

[2] *See* Public Law 97–470, 523 (1983).

[3] Department of Labor Executive Level Conforming Amendments of 1986, Public Law 99–619, sec. 2(a)(1), 100 Stat. 3491 (Nov. 6, 1986).

[4] In 2009, ESA was dissolved, and the Administrator of the Wage and Hour Division was delegated the relevant authorities of the Assistant Secretary for Employment Standards. *See* Sec'y's Order 9–2009, 74 FR 58836 (Nov. 13, 2009).