



ASSOCIATED GENERAL CONTRACTORS OF AMERICA

DEREGULATORY WISH LIST

FEDERAL CONTRACTING

Citation	Title	Agency	Concern	EO 14219 Category
33 CFR Part 170	DoD Cybersecurity Maturity Model Program	SBA	We're concerned with the ability of small businesses to comply with this program. Looking for flexibility.	vii
48 C.F.R. 4.2102	Section 889(a)(1)(b)	DOD/GSA/NASA	Prevents government from contracting with any contractor with certain Chinese telecommunications equipment, including their subs. Opens up FCA.	iv
48 CFR Parts 15 and 19	FAR Case 2021-011 Past Performance Rating for JVs and First-Tier Subs	DOD/GSA/NASA	Proposed rule should be rescinded.	vii
	FAR Case 2023-003 Reverse Auctions	DOD/GSA/NASA	Finalize this rule.	
23 CFR Part 172	Procurement, Management, and Administration of Engineering and Design Related Services	FHWA	The proposed rule should be withdrawn and replaced with additional guidance focusing on local-level implementation.	v
EO 14005	Ensuring the Future Is Made in All of America by All of America's Workers	WH	This EO requires adds a requirement for OMB approval that slows things down unnecessarily.	v
49 CFR part 23	Disadvantaged Business Enterprise Final Rule	DOT	The Bidders List requirements are burdensome, duplicative, and unnecessary. The US DOT lacks the information collection infrastructure to implement it.	vi
	Build America Buy America Act Final Guidance	WH	We are unclear on the status of this guidance document, which included previously exempted construction materials. This portion of the guidance should be left out to ensure a streamlined approach to the exempted materials and whether they are required	vi

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			to comply with BABAA. The OMB approval requirement is also unnecessary.	
48 CFR Parts 1, 7, 22, 36, and 52	Federal Acquisition Regulation: Use of Project Labor Agreements for Federal Construction Projects	DOD/GSA/NASA	This rule should be rescinded and a national policy encouraging open competition should replace it.	vi

LABOR AND WORKFORCE

29 CFR Parts 1, 3, and 5	Updating the Davis-Bacon and Related Acts Regulations	WHD	Remove 3 challenged provisions: operation of law; expansion of coverage to truck drivers and material supply operation. Consider additional reform.	v
EO 13706	Establishing Paid Sick Leave for Federal Contractors	WHD	The DOL final rule , FAR final rule , and underlying guidance should be rescinded.	v
29 CFR Part 541	Defining and Delimiting the Exemptions for Executive, Administrative, Professional, Outside Sales, and Computer Employees	WHD	Rescind 2024 DOL final rule and revert back to Trump administration's 2019 final rule setting a salary threshold level of \$35,568 per year.	vii
29 CFR Parts 780, 788, 795	Employee or Independent Contractor Classification Under the Fair Labor Standards Act	WHD	Rescind the 2024 final rule and revert back to 2021 Trump administration rule reaffirming a clear and straight forward economic reality test to determine whether an individual is in business for him or herself (independent contractor) or is economically dependent on a potential employer for work (FLSA employee).	vii

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26 CFR Part 1	<u>Increased Amounts of Credit or Deduction for Satisfying Certain Prevailing Wage and Registered Apprenticeship Requirements</u>	IRS	Rescind rule and issue a new rule consistent with congressional intent that provides greater flexibility for satisfying the apprenticeship ratio, participation and utilization requirements and make prevailing wage requirements consistent with Davis-Bacon and existing practices.	vi
26 CFR Part 54, 29 CFR Part 2590, 45 CFR Parts 146 and 147.	<u>Requirements Related to the Mental Health Parity and Addiction Equity Act</u>	HHS/DOL	Fully stay the regulation and reconsider a new rule with a narrower scope that is consistent with the CRA text after consultation with stakeholders.	v
8 CFR Parts 214 and 274a	<u>Modernizing H-2 Program Requirements, Oversight, and Worker Protections</u>	USCIS	Rescind H-2B modernization rule's expansion of DHS authority to blacklist employers for past labor law violations.	vi
16 CFR Part 910	<u>Non-Compete Clause Rule</u>	FTC	Rescind the Final Rule	vi

TAX AND FISCAL AFFAIRS

	<u>Corporate Transparency Act Beneficial Ownership Information Reports</u>	FINCEN	Publish a durable regulation codifying Treasury's intent to enforce the requirement against foreign companies only.	vi
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ENVIRONMENTAL

40 CFR 120.2 and 33 CFR 328.3	Waters of the United States	EPA	Conform with SCOTUS decisions in <i>Sackett</i> and <i>Rapanos</i> . Maintain long-standing exclusions (e.g., ditches, water-filled depressions, and stormwater features).	iii
50 CFR Part 17	Species consultation and Critical Habitat Designation	EPA	Restore streamlined processes enacted by 45. Increased mitigation measures should also be rolled back.	iv
40 CFR Part 302	2024 PFAS CERCLA Determination	EPA	EPA has not provided needed standards, background levels, and guidance for how to manage the wastes. EPA's direct-to-Superfund approach was novel (first time ever done) and has created widespread liability for contractors without a compliance path.	vi

SAFETY AND HEALTH

29 CFR Part 1910, 1915, 1917, 1918, 1926, and 1928	Heat Injury and Illness Prevention in Outdoor and Indoor Work Settings	OSHA	<p>Avoid a one-size-fits all approach that allows flexibility in compliance. OSHA has previously promulgated bifurcated rules (e.g. exposure to respirable crystalline silica) for general industry and the construction industry and should do so here. Any final rule should follow the well-proven approach of water, rest, shade, and training and education.</p> <p>Note: OSHA's Heat NEP is due to expire on April 8, 2025. If OSHA determines the need for the policy to</p>	v
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			remain in effect, the agency should also revise the directive to incorporate water, rest, shade, and training and education.	
29 CFR Part 1903	<u>Worker Walkaround Representative Designation Process</u>	OSHA	OSHA has failed to justify the need for this rule change. Employee rights related to safety and health concerns are already protected under the OSH Act. This rule will increase the employer's liability unnecessarily.	v
29 CFR Part 1904	<u>Improve Tracking of Workplace Injuries and Illnesses</u>	OSHA	The requirement for employers in certain industry sectors, construction included, to submit detailed information from their OSHA Forms 300 and 301 and the subsequent posting to the OSHA website, does not improve safety in the workplace.	v
30 CFR Part 90	<u>Lowering Miners' Exposure to Respirable Crystalline Silica and Improving Respiratory Protection; Correction</u>	MSHA	Construction contractors performing work at sites covered under this rule should be permitted to follow the OSHA silica rule. MSHA should incorporate the OSHA rule by reference in their new standard as they failed to clearly distinguish between construction work and the type of work this rule was intended to address.	vi