



ASSOCIATED GENERAL CONTRACTORS OF AMERICA

TOP PRIORITIES: RULES TO RESCIND OR REFORM

Citation	Title	Agency	Concern	AGC Comments in Docket	EO 14219 Category	Applicable SCOTUS Ruling	Regs.gov submission confirmation code
33 CFR 170.1-24	DoD Cybersecurity Maturity Model Program	DOD	AGC is concerned with the ability of small businesses to comply with this program. As contractors need to update and reconfigure their systems, several controls pose an outsized challenge for small and medium-sized contractors to maintain on a continued basis. AGC recommends providing greater flexibility on plans of action and milestones (POA&M) by allowing for extension requests for extenuating circumstances and by providing an option to maintain CMMC certification through an appropriate POA&M to close temporary deficiencies due to system reconfiguration.	Coalition comment here.	vii		294d28d36671
	FAR Case 2023-003 Reverse Auctions	DOD/GSA/NASA	Finalize this rule.				a7c0e42bf533
29 CFR Parts 1, 3, and 5	Updating the Davis-Bacon and Related Acts Regulations	DOL	Remove AGC challenged provisions of the rule: operation of law, expansion of coverage to truck drivers, and material supply operations owned by contractors. Improve the speed and accuracy of the wage determination process so that published rates truly reflect the labor markets on which those projects are based. This rule expands prevailing wage requirements, adding complicated compliance to historically not covered construction work. Small and traditionally non-federal contractors may lack the in-house legal or administrative staff to navigate the payroll and recordkeeping obligations. The increased compliance burden acts as a deterrent for small firms to pursue public works contracts, consolidating market opportunities among large, well-resourced contractors.	AGC comment here.	iii, v, vii	<i>Loper Bright</i>	3a546d407ad4
29 CFR Part 541	Defining and Delimiting the Exemptions for Executive, Administrative, Professional, Outside Sales, and Computer Employees	DOL	Rescind 2024 DOL Overtime Rule (Defining and Delimiting the Exemptions for Executive, Administrative, Professional, Outside Sales, and Computer Employees) and revert back to Trump administration's 2019 rule setting a salary threshold level of \$35,568 per year. The imposition of such a significant increase in the salary threshold level so soon after the last increase is particularly tough on small construction companies (which describe the vast majority of firms in the industry), construction employers in lower-wage regions, and construction personnel.	AGC comment here.	vii		[567836586992]
29 CFR Parts 780, 788, 795	Employee or Independent Contractor Classification Under the Fair Labor Standards Act	DOL	Rescind the 2024 Independent Contractor Rule and revert back to 2021 Trump administration rule reaffirming a clear and straightforward 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).	AGC comment here.	vii	<i>Loper Bright</i>	34c1c1969d39
49 CFR Parts 23 and 26	Disadvantaged Business Enterprise Final Rule	DOT	The Bidders List requirements are burdensome, duplicative, and unnecessary. The state DOTs lack the information collection infrastructure to implement it.	AGC comment can be found here.	vi		9af90ee8f8b3
40 CFR 120.2 and 33 CFR 328.3	Waters of the United States	EPA/USACE	Conform with SCOTUS decision in <i>Sackett</i> .	AGC comments here.	iii	<i>Sackett</i>	a6d9b311229b
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 302.4	2024 PFAS CERCLA Determination	EPA	Contractors can encounter PFAS on projects within the groundwater, soil or products such as coatings. 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.	AGC comment here.	iii, iv, v, vi, vii		07c508320d1d
48 C.F.R. 4.2102	Section 889(a)(1)(b)	FARC	Prevents government from contracting with any contractor using certain Chinese telecommunications services or equipment, including their subs. Imposes undue risk and liability under the False Claims Act.		iv		42149c156243
48 CFR Parts 15 and 19	FAR Case 2021-011 Past Performance Rating for IVs and First-Tier Subs	FARC	Proposed rule should be rescinded.		vii		9be8d9308c30
48 CFR Parts 1, 7, 22, 36, and 52	Federal Acquisition Regulation: Use of Project Labor Agreements for Federal Construction Projects	FARC	This rule should be rescinded and a national policy encouraging competition should replace it. The rule requires every federal prime contractor and subcontractor to negotiate or agree to a project labor agreement (PLA) on federal construction projects valued at \$35 million or more, with limited exceptions, and to require all subcontractors to adopt the PLA. Because PLAs effectively require contractors to make significant changes to their business practices, the rule creates a barrier to entry for small businesses that cannot absorb the costs or manage the changes. This deters many from bidding on federal projects and reduces competition.	AGC comment here.	iii, vii		1348ba386835
44 CFR 9.1-18	Updates to Floodplain Management and Protection of Wetlands Regulations To Implement the Federal Flood Risk Management Standard	FEMA	These changes expanded the floodplain, raising costs for actions involving the use of FEMA federal funds a, and adds confusion and regulatory disparity on projects that require cooperation between multiple agencies. The rule prevents efficient rebuilding after disaster.	AGC comment here.			d723f719d820
23 CFR 172.1, 3, 5, 7, 9, and 11	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.	Coalition comment here.	v		accf999f1fe7
31 CFR 1010.380	Corporate Transparency Act Beneficial Ownership Information Reports	FINCEN	Publish a durable regulation codifying Treasury's intent to enforce the requirement against foreign companies only.		i, vi, vii		
16 CFR 910.1-6	Non-Compete Clause Rule	FTC	Rescind the Final Rule. A blanket ban on noncompete agreements will harm the construction industry overall, especially small businesses. Small entities have different views on noncompete clauses depending on the industry and the reason for usage.		vi, vii		9c8e9d53654e
26 CFR Part 1	Increased Amounts of Credit or Deduction for Satisfying Certain Prevailing Wage and Registered Apprenticeship Requirements	IRS	Rescind the IRA Prevailing Wage and Apprenticeship rule to remove unattainable apprenticeship requirements. The safe harbor and good faith efforts should be expanded to include pre-apprenticeship programs for compliance.	AGC comment here.	vi		10db80830e96
26 CFR Part 54, 29 CFR Part 2590, 45 CFR Parts 146 and 147.	Requirements Related to the Mental Health Parity and Addition Equity Act	IRS/DOL/HHS	Rescind the Final Rule and reconsider a new rule with a narrower scope consistent with the Consolidated Appropriations Act of 2021 text after consultation with stakeholders.		v	<i>Loper Bright</i>	8c523394f55b

30 CFR Parts 56, 57, 60, 70, 71, 72, 75, and 90	Lowering Miners' Exposure to Respirable Crystalline Silica and Improving Respiratory Protection; Correction	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 its new standard as MSHA failed to clearly distinguish between construction work and the type of work this rule was intended to address.	Coalition comment here.	vi		49563399472e
29 CFR Part 1910, 1915, 1917, 1918, 1926, and 1928	Heat Performance Standards	OSHA	Make changes to the proposed rule that provide the necessary flexibility for the dynamic nature of construction. For example, introduce geographic subtleties, provide flexibility in compliance.	AGC comment here.	vi	<i>Loper Bright, WV v. EPA</i>	0af9c32547f5
29 CFR 1903.8	Worker Walkaround Representative Designation Process	OSHA	Rescind the Final Rule. 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 employer's liability unnecessarily.	Coalition comment here.	v	<i>Cedar Point</i>	3e82471763e8
29 CFR 1904.41	Improve Tracking of Workplace Injuries and Illnesses	OSHA	Rescind the Final Rule and subsequent posting of data to the OSHA website. The requirement for employers in certain industry sectors, construction included, to submit the detailed information from their OSHA Forms 300 and 301 and the subsequent posting to the OSHA website does not improve safety in the workplace.	Coalition comment here.	v		ea8193f89aae
8 CFR Parts 214 and 274a	Modernizing H-2 Program Requirements, Oversight, and Worker Protections	USCIS/DHS	Rescind the Final Rule which amounts to an expansion of DHS authority to blacklist employers for past labor law violations. Ensure viability of H-2B program by working with DHS to make visas available quicker.		vi		8d7b49c023ae
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		
	Build America Buy America Act Final Guidance	WH	AGC is 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 streamline approach to the exempted materials and whether they are required to comply with BABAA. The OMB approval requirement is also unnecessary.	AGC comments here.	vi		
EO 13706, 29 CFR Part 13	Establishing Paid Sick Leave for Federal Contractors	WH, DOL	The Obama Paid Sick Leave Rule should be rescinded. This includes rescinding the DOL Final Rule (81 FR 67598), the FAR Final Rule (81 FR 91627), and the underlying guidance at https://www.dol.gov/agencies/whd/government-contracts/sick-leave .	AGC comment here.	v		1d82b75b70ad

