



December 23<sup>rd</sup>, 2021

The Honorable Xavier Becerra  
Secretary  
U.S. Department of Health and Human Services  
200 Independence Avenue, SW Washington, DC 20201

**RE: Securing Updated and Necessary Statutory Evaluations Timely; Proposal To Withdraw or Repeal (RIN: 0991-AC24); Docket No. HHS-OS-2020-0012**

Dear Secretary Becerra:

**Americans for Tax Reform (ATR) writes in opposition to the proposed rule entitled “Securing Updated and Necessary Statutory Evaluations Timely; Proposal To Withdraw or Repeal,” as published in the Federal Register on Oct. 29, 2021.**

This proposed rule would withdraw or repeal a final rule entitled “Securing Updated and Necessary Statutory Evaluations Timely” (SUNSET final rule), published in the Federal Register of January 19, 2021. The SUNSET final rule establishes important regulatory reform by requiring HHS rules to expire five years after the SUNSET rule became effective, ten years after a regulation’s promulgation, or ten years after the last year the HHS assessed and reviewed the rule.

The SUNSET final rule is consistent with [Section 610](#) of the Regulatory Flexibility Act (RFA), in which Congress required federal agencies to establish a plan to review its rules within ten years. Despite this law, agencies consistently neglect this responsibility, including HHS.

**The SUNSET rule addresses the mass of outdated regulations by providing a pathway to update, modernize, and eliminate red tape** and help promote a healthcare system that provides Americans with high quality, patient-centered care.

It requires the vast majority of regulations to undergo a two-step review process. Under this process, the agency would first be required to determine the economic impact of any rule. If it is determined that a regulation has a significant economic impact, the agency is required to perform a more detailed review, which must consider a number of factors including how complex the rule is, whether it is duplicative in any way, and whether there are any technological, economic, or legal considerations in amending or rescinding the rule.

The existing rule exempts a small minority of regulations from this process including regulations that are jointly issued with other agencies, regulations that legally cannot be rescinded, and regulations issued with respect to a military or foreign affairs function or addressed solely to internal management or personnel matters.

**Repealing the SUNSET rule would ensure Americans continue to be subject to costly, burdensome regulations.** Because HHS imposes rules on health care providers, new regulations not only cost money, but could cost lives. Americans spend an estimated [\\$1.9 trillion a year](#) complying with regulations, meaning the average U.S. household’s estimated federal regulatory burden is at least [\\$14,455](#) annually.

If the American people are forced to comply with this significant regulatory burden, it is not unreasonable to expect the federal government to ensure *its* rules are not unnecessarily burdensome.

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**Federal agencies should already be performing these reviews.** The SUNSET rule simply establishes an enforcement mechanism to the longstanding Section 610 of the RFA. The agency's claim that the rule would be a far too great a burden suggests that the Department had not been complying with Section 610. An estimated [85 percent](#) of HHS regulations created before 1990 have not been edited or updated, so this deregulatory action is long overdue.

Medical technology and knowledge have been rapidly evolving in the past 30 years. Rules created 30 years ago are likely out of date or could be significantly improved upon.

**Requiring retrospective review of regulations is commonsense and bipartisan.** This type of regulatory reform has been [supported](#) by every Democrat and Republican president in the last four decades before this administration. For instance, in 1981 President Reagan signed Executive Order 12291, which ordered agencies to "review existing regulations" in view of cost-benefit principles and potential alternatives.

In 2001, President George W. Bush released [a report](#) to Congress that reviewed how to assess the costs and benefits of existing federal regulations, including their aggregate costs. In addition, President Obama signed Executive Order No. 13563, which ordered agencies "to facilitate the periodic review of existing significant regulations . . . to promote retrospective analysis of rules that may be outmoded, ineffective, insufficient, or excessively burdensome, and to modify, streamline, expand, or repeal them in accordance with what has been learned."

The proposal from HHS to withdraw the SUNSET rule would allow the agency to continue its noncompliance with Section 610. This will be a huge lost opportunity to make sure regulations are efficient, modern, and are not overly burdensome to the American people. **HHS should withdraw the proposed rule to repeal the SUNSET rule.**

Onward,

Grover G. Norquist  
President, Americans for Tax Reform