

FRANK PALLONE, JR., NEW JERSEY
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GREG WALDEN, OREGON
RANKING MEMBER

ONE HUNDRED SIXTEENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON ENERGY AND COMMERCE

2125 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6115

Majority (202) 225-2927

Minority (202) 225-3641

December 16, 2020

The Honorable Alex Azar
Secretary
U.S. Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

Dear Secretary Azar:

We write to express strong support for the Department of Health and Human Services' (HHS) November 4, 2020 notice of proposed rulemaking entitled "Securing Updated and Necessary Statutory Evaluations," and to seek further information about this effort.

Under this regulatory reform proposal, HHS would assess its regulations every ten years to determine whether they are subject to review under the Regulatory Flexibility Act (RFA).¹ Regulations that are found to be subject to the RFA would then be analyzed to determine whether the regulation is still needed, working as intended, or having the appropriate effects. If regulations were not assessed appropriately under the RFA every ten years, they would expire. HHS will also have two years from the date the rule is finalized to review regulations that are more than ten years old.

HHS regulations have a real-world impact on jobs, the quality of life, and the cost of living of the American people. As a matter of good government, it is important that regulations are monitored to find out if they are actually achieving their projected benefits. The proposed rule would incentivize HHS to conduct retrospective regulatory reviews to ensure regulations are delivering the projected benefits rather than measuring the effectiveness of the implementation of the regulation. A Government Accountability Office report in 2007 found that selected federal agencies conducted more than 1,300 regulatory reviews between 2001 and 2006, of widely varying scope. The report stated, "[o]ur limited review of agency summaries and reports on completed retrospective reviews revealed that agencies' reviews more often attempted to assess

¹ <https://www.federalregister.gov/documents/2020/11/04/2020-23888/securing-updated-and-necessary-statutory-evaluations-timely>

the effectiveness of their implementation of the regulation rather than the effectiveness of the regulation in achieving its goal.”² We appreciate the rigor of the HHS proposal in response to such concerns.

The sunseting of outdated and burdensome regulations has been a matter of longstanding bipartisan interest. As you noted in the HHS press announcement, this proposed rule would deliver on the requirements of the RFA enacted by Congress in 1980 and signed into law by President Carter. The notion of periodic retrospective reviews of regulations has long been explored and advanced by Presidents of both parties, going as far back as President Carter and as recently as President Obama in his Executive Order No. 13563, which ordered agencies to “facilitate the periodic review of existing significant regulations.”³

We applaud you and President Trump for continuing the bipartisan work on regulatory review to ensure that federal agencies are continually held accountable to taxpayers and that regulations remain relevant and updated to innovation and changes in market conditions.

To assist our understanding of the proposed rule, we would appreciate the following information be provided by December 30, 2020:

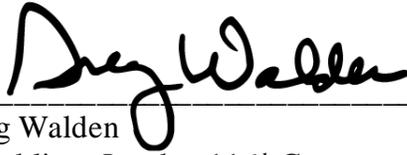
1. When did the planning and drafting of this proposed rule begin? Please explain the timeline of how this rule came to be proposed.
2. What effects can regulatory reviews, suspensions, or updates have on the health care industry, or the economy more broadly? Please cite any recent regulatory actions that would demonstrate these effects.
3. The HHS press announcement for the proposed rule stated that during the pandemic, HHS had suspended numerous regulations based on the judgment that they impose unnecessary costs impeding the response. Please provide a list of the suspended regulations.

If you have any questions, please contact Nolan Ahern or Alan Slobodin of the Minority Committee staff at (202) 225-3641.

² Government Accountability Office, “Reexamining Regulations: Opportunities Exist to Improve Effectiveness and Transparency of Retrospective Reviews,” GAO-07-791 (July 2007), *available at* <https://www.gao.gov/new.items/d07791.pdf>

³ <https://obamawhitehouse.archives.gov/the-press-office/2011/01/18/executive-order-13563-improving-regulation-and-regulatory-review>

Sincerely,



Greg Walden
Republican Leader, 116th Congress
Committee on Energy and Commerce



Cathy McMorris Rodgers
Republican Leader, 117th Congress
Committee on Energy and Commerce



Michael C. Burgess, M.D.
Republican Leader
Subcommittee on Health



Brett Guthrie
Republican Leader
Subcommittee on Oversight and
Investigations