



29 CFR Part 1473

Rescission of Federal Mediation and Conciliation Rule on Administrative Guidance

AGENCY: Federal Mediation and Conciliation Service.

ACTION: Final rule; rescission of regulations.

SUMMARY: On April 20, 2020, the Federal Mediation and Conciliation Service (FMCS) published a final rule on administrative guidance implementing an Executive order entitled “Promoting the Rule of Law Through Improved Agency Guidance Documents,” and providing policy and requirements for issuing, modifying, withdrawing, and using guidance; and taking and responding to petitions about guidance. In accordance with the “Executive Order on Revocation of Certain Executive Orders Concerning Federal Regulation,” issued by President Biden on January 20, 2021, this final rule rescinds FMCS’s rule on guidance.

DATES: This final rule is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

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SUPPLEMENTARY INFORMATION:

I. Discussion

On April 20, 2020, at 85 FR 21770, the Federal Mediation and Conciliation Service (FMCS) published a final rule on administrative guidance implementing E.O. 13891, “Promoting the Rule of Law Through Improved Agency Guidance Documents,” signed by President Trump on October 9, 2019. As required by the E.O., this rule contained policy and requirements for

issuing, modifying, withdrawing, and using guidance; making guidance available to the public; a notice and comment process for significant guidance; and taking a responding to petitions about guidance.

On January 20, 2021, President Biden issued the “Executive Order on Revocation of Certain Executive Orders Concerning Federal Regulation” which, among other things, revoked E.O. 13891 and directed agencies to promptly take steps to rescind any orders, rules, regulations, guidelines, or policies, or portions thereof, implementing or enforcing the Executive Orders. In accordance with E.O. 13992, FMCS is issuing this final rule, which rescinds the rule on procedures for FMCS guidance documents published April 20, 2020.

II. Final Rule

FMCS has determined that this rule is suitable for final rulemaking. The revisions to FMCS’ policies and requirements surrounding administrative guidance are purely internal matters of agency management, as well as the agency’s organization, procedure, and practice. Accordingly, as with the April 20, 2020, final rule, FMCS is not required to engage in a notice and comment process to issue this rule under the Administrative Procedures Act, See U.S.C. 553(a)(2), 553(b)(A). Furthermore, because this rule is procedural rather than substantive, the normal requirement of 5 U.S.C. 553(d) that a rule not be effective until at least 30 days after publication in the Federal Registrar is inapplicable. FMCS also finds good cause to provide an immediate effective date for this rule because it imposes no obligations on parties outside the federal government and therefore no advance notice is required to enable employers or other private parties to come into compliance.

List of Subjects in 29 CFR Part 1473

- Administrative practice and procedure, Guidance documents

PART 1473 [REMOVED]

For the reasons discussed in the preamble, and under the authority 29 U.S.C 172 of Taft Harley Act of 1947 and E.O. 13992, FMCS amends 29 CFR chapter XII by removing part 1473.

Issued in Washington, D.C.

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