



DEPARTMENT OF STATE

22 CFR Part 135

[Public Notice: 12969]

RIN 1400-AG20

Amendments to HAVANA Act of 2021 Implementation Rules

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: This rule provides a change in the dates for allowable claims under the HAVANA Act of 2021. The change, mandated by the 2026 National Defense Authorization Act, changes the dates for allowable claims from "on or after January 1, 2016" to "on or after September 11, 2001." This rule also provides a deadline for applicants to submit appeals of adverse decisions on their applications, plus administrative changes.

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

FOR FURTHER INFORMATION CONTACT: Alice Kottmyer, Attorney Adviser, Office of Management, kottmyeram@state.gov.

SUPPLEMENTARY INFORMATION: On October 8, 2021, the “Helping American Victims Affected by Neurological Attacks” (HAVANA) Act of 2021 became law (Public Law 117-46). In this Act (codified at 22 U.S.C. 2680b), Congress authorized federal government agencies to compensate affected current employees, former employees, and their dependents for qualifying injuries to the brain. The statute defined a covered employee as one who, on or after January 1, 2016, became injured by reason of a qualifying injury to the brain (which is itself a defined term), and it required the Department (and other agencies) to “prescribe regulations” implementing the HAVANA Act not later than 180 days after the effective date of the Act. The

Department's implementation of the HAVANA Act is in Part 135 of Title 22 of the Code of Federal Regulations.¹

On December 18, 2025, the President signed into law the National Defense Authorization Act for FY 2026 (NDAA FY26). Section 5604 of the NDAA FY26 struck the phrase "January 1, 2016" and inserted "September 11, 2001" in its place. This rule implements that change in §§ 135.1, 135.2 (three places), and 135.3 (three places) of 22 CFR.

In this rulemaking, the Department is also removing an outdated reference to the Bureau of Global Talent Management by changing it to “the Department”. Also, in § 135.3(g), the Department is clarifying that applicants must file appeals of adverse decisions not later than 60 days after the date of the adverse decision. An appeal deadline establishes a clear deadline for appeals, aligning with regulations implemented by other agencies². Setting a time limit on appeals submission will provide closure to requests without leaving the possibility of appeal open indefinitely. Although the Deputy Secretary for Management and Resources is the final appeal authority, the Deputy Secretary has, and the Secretary retains, appeal authority, should the Deputy Secretary for Management and Resources be unavailable to act on the appeal. The rule also provides for the approximately half-dozen applicants who have received an adverse response to their claim but have not filed an appeal. The rule provides them with a deadline to file an appeal of 60 days from the effective date of the rule.

Finally, the Department notes that “Under Secretary for Management” includes anyone with the authority of the Under Secretary. The Secretary of State has, from time to time, issued delegations of the authority of the Under Secretary to other Department officers, to be exercised when the Under Secretary is unavailable or the position is vacant. That delegated authority would include the authority referenced in § 135.3(f). In addition, if the Deputy Secretary of State

¹ See final rule published at 88 FR 4722 (January 25, 2023).

² See, *for e.g.*, 28 CFR 106.5(e) and 32 CFR 49.5(d)

for Management and Resources is unavailable to act on an appeal, the Deputy Secretary of State has delegated authority to act on it³.

Regulatory Analysis

Administrative Procedure Act

This rule is being published as a final rule and is exempt from notice and comment under the "good cause" exemption to the Administrative Procedure Act. Congress intended for the coverage under the HAVANA Act to be expanded as soon as possible, and the Department finds that any delay in the effective date would be contrary to the public interest. For the same reason, the rule is exempt from the 30-day delay in effective date under 5 U.S.C. 553(d).

Congressional Review Act

The Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget (OMB) has determined that this rule is not a major rule as defined by 5 U.S.C. 804.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of \$100 million in any year; and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Executive Order 13175

The Department has determined that this rulemaking will not have tribal implications, will not impose substantial direct compliance costs on Indian tribal governments, and will not preempt tribal law. Accordingly, the requirements of Executive Order 13175 do not apply to this rulemaking.

Regulatory Flexibility Act: Small Business

³ See Delegation of Authority 538, 88 FR 13005.

The Department of State certifies that this rulemaking will not have an impact on a substantial number of small entities. A regulatory flexibility analysis is not required under the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*).

Executive Order 12866, 14192, and 13563

OIRA has designated this rule as “not significant” under Executive Order 12866. The benefits of the rule outweigh any costs to the public, which are minimal. This rulemaking is required under NDAA FY26. This rule is exempt from the provisions of Executive Order 14192, since it has been designated "not significant".

Executive Order 12988

The Department of State has reviewed this rule in light of Executive Order 12988 to eliminate ambiguity, minimize litigation, establish clear legal standards, and reduce burden.

Executive Orders 12372 and 13132

This rule will not have substantial direct effect on the states, on the relationships between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to require consultations or warrant the preparation of a federalism summary impact statement. Executive Order 12372, regarding intergovernmental consultation on federal programs and activities, does not apply to this regulation.

Paperwork Reduction Act

This rulemaking is related to an information collection for the Form DS-4316, “Eligibility Questionnaire for HAVANA Act Patients,” OMB Control Number 1405-0250. Question 4 on the DS-4316 is being updated to reflect the statutory change.

List of Subjects in 22 CFR Part 135

Government employees, Federal retirees, Health care.

Accordingly, for the reasons stated in the preamble, the Department of State amends part 135 to subchapter N of title 22, Code of Federal Regulations, to read as follows:

PART 135—IMPLEMENTATION OF THE HAVANA ACT OF 2021

1. The authority citation for part 135 continues to read as follows:

Authority: 22 U.S.C. 2651a; 22 U.S.C. 2680b.

§§ 135.1 and 135.2 [Amended]

2. Amend §§ 135.1 and 135.2, by removing the date "January 1, 2016" wherever it appears, and adding, in its place, the date "September 11, 2001".

3. Amend § 135.3 by:

a. In paragraphs (a) through (c), removing the date ““January 1, 2016” wherever it appears and adding, in its place, the date “September 11, 2001”; and

b. Revising paragraphs (f) and (g).

The revisions read as follows:

§ 135.3 Eligibility for payments by the Department of State.

* * * * *

(f) The Under Secretary of State for Management may approve payments under this section. The Department will notify individuals of the decision in writing.

(g) An appeal of a decision made by the Under Secretary of State for Management may be directed to the Deputy Secretary of State for Management and Resources in writing not later than 60 calendar days after the date of the decision by the Under Secretary for Management. The Deputy Secretary of State for Management and Resources is the final appeal authority. In the event that this official is unavailable or the position is vacant, the Secretary of State or Deputy Secretary of State may act as final appeal authority. The Department will notify individuals of the decision on the appeal in writing. Individuals who received a decision from the Under Secretary for Management that was dated on or before [INSERT DATE OF PUBLICATION IN

THE FEDERAL REGISTER], have until [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER], to file an appeal of such decision.

Darren W. Hultman,
Deputy Assistant Secretary,
Bureau of Personnel and Training,
Department of State.

[FR Doc. 2026-05113 Filed: 3/13/2026 8:45 am; Publication Date: 3/16/2026]