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DEPARTMENT OF HEALTH AND HUMAN SERVICES

45 CFR Part 84

[Docket No. HHS-OCR-2026-0133]

RIN 0945-AA30

Extension of Compliance Dates for Nondiscrimination on the Basis of Disability; Accessibility of Web Content and Mobile Applications of Recipients of Departmental Financial Assistance

AGENCY: Office for Civil Rights, Department of Health and Human Services.

ACTION: Interim final rule; request for comments.

SUMMARY: By this interim final rule ("IFR"), the Department of Health and Human Services ("Department") is revising the Department's regulations implementing section 504 of the Rehabilitation Act ("section 504") to extend the compliance dates for the requirements for web content and mobile application ("app") accessibility that were adopted on May 9, 2024. The compliance date for recipients with fifteen (15) or more employees is extended from May 11, 2026, to May 11, 2027. The compliance date for recipients with fewer than fifteen (15) employees is extended from May 10, 2027, to May 10, 2028.

DATES: *Effective date:* This IFR is effective May 7, 2026.

Comments: Written comments must be submitted on or before July 6, 2026. See section VI of the **SUPPLEMENTARY INFORMATION** for additional details.

ADDRESSES: You may submit comments, identified by RIN 0945-AA30 (or Docket No. HHS-OCR-2026-0133), by either of the following methods:

- Federal eRulemaking Portal: You may submit electronic comments at https://regulations.gov by searching for the Docket ID number HHS-OCR-2026-0133. Follow the instructions for submitting electronic comments. If you are submitting comments electronically, the department strongly encourages you to submit any

comments or attachments in Microsoft Word format. If you must submit a comment in Adobe Portable Document Format ("PDF"), the Department strongly encourages you to convert the PDF to "print-to-PDF" format, or to use some other commonly used searchable text format. Please do not submit the PDF in scanned format. Using a print-to-PDF allows the Department to electronically search and copy certain portions of your submissions to assist in the rulemaking process.

- Regular, Express, or Overnight Mail: You may mail written comments to the following address only: U.S. Department of Health and Human Services, Office for Civil Rights, Attention: Disability IFR, RIN 0945-AA30, Hubert H. Humphrey Building, Room 509F, 200 Independence Avenue SW, Washington, DC 20201.

FOR FURTHER INFORMATION CONTACT: John Thompson, Office for Civil Rights, Department of Health and Human Services at (202) 545-4884 or (800) 537-7697 (TDD), or via email at 504@hhs.gov.

SUPPLEMENTARY INFORMATION:

I. Background and Legal Authority

Section 504 protects individuals with disabilities from disability-based discrimination.[1] The Department's regulations implementing Section 504, found at 45 CFR part 84, apply to programs and activities conducted by recipients of Federal financial assistance. The Department is charged with promulgating regulations implementing section 504 for recipients of Federal financial assistance from the Department.[2]

The Department issues tens of thousands of grants each year to a wide range of recipients. Recipients of these grants and other financial assistance from the Department include State and local governments, social service providers, child welfare organizations, public and private post-secondary institutions, and health care providers of all sizes, ranging from large

[1] 29 U.S.C. 794.
[2] 29 U.S.C. 794(a).

hospital systems to small local clinics. These recipients vary vastly in terms of size, location, resources and technical support, mission, and surrounding population, and it is important that any rulemaking take these variances into account.

On May 9, 2024, the Department published a final rule revising its section 504 regulations titled "Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance."[3] Subpart I of the 2024 final rule set forth technical requirements for the web content and mobile apps that recipients provide or make available, directly or through contractual, licensing, or other arrangements.[4] In particular, the rule adopted the Web Content Accessibility Guidelines ("WCAG") version 2.1 Level AA (hereinafter referred to as "WCAG 2.1") success criteria, published in June 2018,[5] as the technical standard for web content and mobile app accessibility under section 504.[6] The 2024 final rule included provisions describing how WCAG 2.1 applies to recipients' web content and mobile apps, as well as provisions identifying circumstances when certain web content and content in mobile apps may not need to meet the technical standard.[7] The 2024 final rule's effective date was July 8, 2024,[8] but the Rule did not require recipients to immediately comply with the success criteria of WCAG 2.1. Rather, the 2024 final rule provided that recipients with fifteen (15) or more employees must comply with the success criteria of WCAG 2.1 starting on May 11, 2026,[9] and that recipients with fewer than fifteen (15) employees must comply with the success criteria of WCAG 2.1 starting on May 10, 2027.[10]

The 2024 final rule was the culmination of a multi-year rulemaking process that began with a September 14, 2023 Notice of Proposed Rulemaking[11] that solicited public comment,

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[3] 89 FR 40066 (May 9, 2024).
[4] 89 FR 40193-94; 45 CFR 84.82-89.
[5] Copyright © 2017-2018 W3C®. This document includes material copied from or derived from https://www.w3.org/TR/2018/REC-WCAG21-20180605/ [https://perma.cc/UB8A-GG2F].
[6] 89 FR 40193; 45 CFR 84.84(b)(1) through (3).
[7] *See* 45 CFR 84.84 through 84.89.
[8] 89 FR 40066.
[9] 89 FR 40193; 45 CFR 84.84(b)(1).
[10] 89 FR 40193; 45 CFR 84.84(b)(2).
[11] 88 FR 63392 (Sept. 14, 2023).

received 5,269 public comments, and ultimately resulted in the two (2) and three (3) year implementation dates for complying with the success criteria of WCAG 2.1.

While virtually all commenters agreed that the web content and mobile apps used by recipients should be accessible to people with disabilities and that some standard was needed to measure accessibility,[12] opinions were split on the most appropriate standard and implementation date(s).[13] While many commenters agreed that WCAG 2.1 was the most appropriate standard that would ensure accessibility for people with disabilities without being overly burdensome even for the smallest recipients, some advocates thought that more stringent standards, like WCAG 2.2 or even an evolving standard, would be more appropriate.[14] Others, especially groups representing recipients, advocated for less stringent standards, like WCAG 2.0, or even recommended that the Department merely suggest that recipients follow a specific standard without enforcing compliance.[15] Ultimately, based on the information available to it at the time, the Department concluded that requiring compliance with WCAG 2.1 struck the appropriate balance between ensuring that a significant number of people with disabilities, many of whom have been excluded from recipient web content and mobile apps for years due to their inaccessibility, could access health care and other services while ensuring that recipients were not overly burdened with unclear or unachievable standards.[16]

Similarly, the comments signaled disagreement over the implementation date(s) for the requirements of 45 CFR 84.84.[17] Some commenters indicated that two (2) or three (3) years for implementation was far too long, considering that people with disabilities have been ignored by recipients when designing and acquiring web content for decades.[18] Others thought that the time periods should be extended to lessen any potential burden on the smallest providers.[19]

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[12] *See* 89 FR 40129.
[13] *See, e.g.*, 89 FR 40130 and 40132-33.
[14] *See* 89 FR 40130.
[15] *Id*.
[16] 89 FR 40130-32.
[17] 89 FR 40132-33.
[18] 89 FR 40132.
[19] 89 FR 40132-33.

Ultimately, based on the information available to it at the time, the Department kept the two (2) and three (3) year implementation periods/dates in the final rule, reasoning that while the accessibility of web content and mobile apps is imperative, recipients would need some time to come into compliance, although extending the compliance further would result in continued unnecessary exclusion.[20]

Concerning the costs that recipients would incur for compliance with the web content and mobile app accessibility requirements of the 2024 final rule, some commenters expressed concerns that small recipients might have budgets too small to meet the proposed rule's compliance dates (which were ultimately adopted in the 2024 final rule).[21] Alternatively, other commenters stated that if recipients began planning at the time the 2024 final rule was published, they would be able to ensure compliance within the proposed rule's compliance dates for web content and mobile app accessibility without incurring unreasonable costs.[22] Similarly, most commenters thought that recipients of all sizes should be held to the same accessibility standards, while some commenters thought that smaller recipients should be held to a more lenient standard.[23] Ultimately, the Department decided that holding different recipients to different accessibility standards would be untenable and result in uneven access for people with disabilities.[24] For example, a clinic with 15 employees that requires patients to schedule vaccination appointments online would have to ensure that the web content used for such scheduling conforms with the success criteria of WCAG 2.1 and can be used by a person who is blind and uses a screen reader. Alternatively, a clinic with 14 employees would not have to ensure that its web content used to schedule vaccination appointments conforms with the success criteria of WCAG 2.1, as required by the rule. The difference in time periods for implementation

[20] 89 FR 40133.
[21] 89 FR 40133.
[22] 89 FR 40133.
[23] 89 FR 40133.
[24] 89 FR 40134.

was deemed the appropriate method to assist smaller recipients with their obligations in light of those recipients' more limited resources.

Of note, less than a month prior to the publication of the 2024 section 504 final rule, the Department of Justice ("DOJ") published its own final rule updating the web content and mobile app requirements for public entities under title II of the Americans with Disabilities Act ("ADA").[25] That final rule imposed substantially similar requirements for public entities, sometimes referred to as State and local government entities, many of which also receive financial assistance from the Department and are subject to the Department's section 504 regulations. Specifically, the 2024 title II final rule requires compliance with the success criteria of WCAG 2.1, originally set implementation dates of two (2) and three (3) years in the future, and differentiates between small and large covered entities based on population size.[26]

II. Need for this Interim Rule

The Department now believes that the compliance dates for web content and mobile app accessibility in the 2024 final rule in § 84.84(b) are unlikely to be met by a significant number of recipients, especially local governments and other small and medium size recipients of financial assistance from the Department, for various reasons beyond the Department's and recipients' control.

Recently, one commenter submitted a response to the Office of Management and Budget's ("OMB's") request for information on potential deregulatory actions[27] that questioned the need for any standards in section 504 to ensure the accessibility of web content and mobile apps.[28] The commenter, a virtual mental health care provider, stated that it will need to engage in "extensive updates" to their "existing patient forms and written communications" and will have

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[25] 89 FR 31320 (Apr. 24, 2024).
[26] 89 FR 31337; 28 CFR 35.200. As discussed in more detail later in this preamble, DOJ recently published an IFR delaying the implementation dates included in its 2024 title II final rule by one year. Therefore, the original two (2) and three (3) year implementation dates are now three (3) and four (4) years. 91 FR 20902 (Apr. 20, 2026). 89 FR 31337; 28 CFR 35.200.
[27] *Request for Information: Deregulation*, 90 FR 15481 (Apr. 11, 2025).
[28] OMB Deregulatory Talkiatry Letter (May 12, 2025), https://www.regulations.gov/comment/OMB-2025-0003-8104.

to update the "appearance of websites and mobile applications."[29] The commenter also stated its belief that the 2024 final rule "imposes substantial financial burdens on health care providers without providing any material benefits"[30] and that only the general access requirements of title III of the ADA should apply for people with disabilities, not the specific standards in the 2024 final rule.[31]

In addition to the OMB request for information, the Department of Government Efficiency created an opportunity for members of the public to submit deregulatory suggestions.[32] One anonymous commenter stated that the success criteria of WCAG 2.1 "impose[] significant burden on innovative startups and put[] those who offer services to government funded programs at a disadvantage to those offering cash pay services and create[] a disincentive for companies with new technology or services to offer them to CMS [Centers for Medicare & Medicaid Services] participants."[33] The commenter also stated that the 2024 final rule is "unreasoned and oversteps boundaries as website accessibility is already governed under the Americans with Disabilities Act."[34]

In addition to the comments that the Department received concerning its own 2024 final rule, OMB received comments about DOJ's 2024 final rule adopting web content and mobile application accessibility requirements under title II of the ADA. The DOJ 2024 title II final rule imposed the same accessibility requirements as the Department's 2024 section 504 final rule, but DOJ's rule applied to State and local government entities covered by title II of the ADA, regardless of whether those entities also receive Federal financial assistance.[35] There is

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[29] *Id*. at 5-6.
[30] While the Department is sympathetic to the costs that recipients will incur in order to ensure their web content and mobile apps conform with the success criteria of WCAG 2.1 as required by the 2024 final rule, it does not agree with the statement that such conformance will not provide "any material benefits." Particularly in the area of telehealth, if a person with a disability is not able to access a recipient's web content or mobile app because it was not designed accessibly, that person is denied health care by a recipient of Federal dollars.
[31] *Id*. at 6.
[32] Deregulation Suggestions, Regulations.gov, https://www.regulations.gov/deregulation (last visited Apr. 10, 2026).
[33] Deregulatory comment DOGE-0995, on file with OCR.
[34] The Department recognizes the concerns of this commenter and does not intend to limit technological innovation. The Department does note that title II of the ADA, which applies to the services, programs, and activities of public entities, imposes nearly identical web content and mobile app accessibility requirements.
[35] 89 FR 31320 (Apr. 24, 2024).

significant overlap between covered entities under both rules since some recipients of financial assistance from HHS are also public entities governed by title II of the ADA. Accordingly, comments on DOJ's 2024 title II final rule are also relevant to HHS's 2024 section 504 final rule to the extent that commenters are also subject to the Department's section 504 rules.

One such comment on DOJ's 2024 final rule, came from a group of higher education advocacy associations that requested DOJ either "delay or provide additional information regarding" DOJ's 2024 title II final rule.[36] The group notes that its member institutions are "preparing to comply with these reporting and implementation deadlines, many of which will entail significant commitments of resources and staff time" but that "[g]iven the shifts in administration priorities, as well as the changes to staffing and leadership, that accompany a transition between administration, there is a lack of clarity as to what compliance may necessitate."[37]

Another comment came from the Small Business Administration, which states that it believes DOJ underestimated costs for small governments and townships and requests that public entities with smaller populations be granted a number of exceptions to full compliance in the allotted time.[38]

Recently, the Department was also made aware of documents provided to OMB by organizations representing U.S. cities and counties in response to a DOJ rulemaking concerning its own web content and mobile app accessibility requirements under title II of the ADA. On April 20, 2026, DOJ published an IFR delaying the compliance dates included in its 2024 title II final rule by one year.[39] During the rulemaking process leading to DOJ's IFR, the National Association of Counties ("NACo") provided a document to OMB stating that it conducted a

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[36] Letter for Russell T. Vought, Director, OMB, from Chip Bishop, Deputy Chief Counsel, American Council on Education at 2 (May 12, 2025), https://www.regulations.gov/comment/OMB-2025-0003-8019 [https://perma.cc/9WTC-UFS7].
[37] *Id*. at 2.
[38] Letter for Russell T. Vought, Director, OMB, from Chip Bishop, Deputy Chief Counsel, U.S. Small Business Administration Office of Advocacy (May 12, 2025), https://advocacy.sba.gov/wp-content/uploads/2025/05/Comment-Letter-Deregulation_Docket-OMB-20250003.pdf.
[39] 91 FR 20902.

member survey and that based on the 18 responses it received (3 from counties with populations of less than 50,000; 12 from counties with populations of 50,000-500,000; 3 from counties with populations of more than 500,000), it estimated that, while DOJ's assessment of costs for its 2024 title II final rule was either accurate or overestimated costs, those costs still exceed what counties had budgeted for web content remediation.[40] The surveyed counties also stated that while they have made strides toward web content remediation, there remain obstacles, especially time-consuming and costly remediation of PDF documents.[41] Counties also reported difficulty understanding how compliance will be measured while also noting that there may be difficulty ensuring that the third party contractors, on which they rely, make counties' web content conform to the success criteria of WCAG 2.1.[42] Finally, NACo recommended that the compliance date for all entities be extended to July 1, 2027, that counties with populations below 10,000 be exempted from web content accessibility requirements entirely, and that prior to any finding of a violation of web content accessibility, the covered entity in question be provided a set period of time to cure the issue in question.[43]

The National League of Cities ("NLC") similarly provided a document to OMB expressing concern that remediation of websites for cities of all sizes, but particularly smaller cities, will prove costly and constrain the budgets of those cities.[44] NLC did not provide survey results like NACo did, but did note that over 16,000 municipalities in the United States have populations of less than 10,000 and may have budgets of $2 million or less.[45] NLC stated that they have been told that one-time quotes for PDF and website remediation services (without specifying the size or budget of the municipality or city) have ranged from a total of $10,000 to

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[40] *See* Letter from National Association of Counties to OIRA, NACo 12866 Meeting ADA Web Based Accessibility (March 4, 2026), https://www.reginfo.gov/public/do/viewEO12866Meeting?viewRule=false&rin=1190-AA82&meetingId=1326573&acronym=1190-DOJ/CRT.
[41] *Id*. at 3.
[42] *Id*.
[43] *Id*. at 4.
[44] *See* Letter from National League of Cities to OIRA, NLC Web Accessibility Rule Letter March 3 2026 (March 4, 2026), https://www.reginfo.gov/public/do/viewEO12866Meeting?viewRule=false&rin=1190-AA82&meetingId=1326573&acronym=1190-DOJ/CRT.
[45] *Id*. at 2.

$20,000, with total annual remediation estimates of up to $70,000.[46] NLC also raised concerns of remediation prices for medium to large cities, stating that one city with a population of about 275,000 would need to devote 1,300 staff hours for general training, PDF-specific training, auditing, remediation oversight, and support and enforcement.[47] Similar to NACo, NLC requested that DOJ exempt communities with populations of less than 10,000 entirely, delay the implementation date by at least one year, and allow for a set period of time for covered entities to cure nonconformance before they are found in violation.[48] Additionally, NLC requests that DOJ "make more flexible the categories of exempted content, to reflect the ongoing challenges cities have faced in making content accessible that is hosted on some social media platforms, provided on city websites by third parties such as GIS data services, and that is required to be made available by Federal or State laws."[49]

In addition to this information from cities and counties, the Department received comments from a representative of primary health care associations that support federally qualified health centers ("FQHCs").[50] Those comments indicated that FQHCs were working towards conformance with the success criteria of WCAG 2.1, but were experiencing difficulties with full conformance. Specifically, the representative indicated that there is a wide range of understanding of, and ability to comply with, the WCAG 2.1 success criteria among FQHCs depending on their size, staff expertise, and operations. Among those who fully understand their obligations and have more resources, there are still issues with remediation of web content and mobile apps for specific success criteria. For example, some FQHCs have experienced issues with making the electronic documents they rely on fully accessible, while others are having difficulty ensuring that their web content can be navigated solely with a keyboard (without a mouse). This means that some FQHCs will have to rely on outside vendors to ensure their

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[46] *Id*.
[47] *Id*.
[48] *Id*. at 3.
[49] *Id*.
[50] Comments on the feasibility of web accessibility requirements for FQHCs, on file with OCR (Mar. 30, 2026).

websites are compliant, often at higher costs and with indefinite timelines that may make the May 2026 deadline impossible to meet.

Taken together, these documents indicate that FQHCs, cities, and counties, many of which likely receive Federal financial assistance from the Department, are experiencing difficulty ensuring that their web content conforms to the success criteria of WCAG 2.1 as required by the 2024 final rule because of circumstances outside of the Department's and recipient's control. The Department also believes it is likely that many other small and medium sized recipients beyond FQHCs, cities, and counties are experiencing similar difficulties coming into compliance with WCAG 2.1 as required by the 2024 final rule. Many recipients, including local clinics, rural hospitals, and small child welfare entities, have smaller budgets and limited internal ability to remediate inaccessible web content. Those recipients will likely also have to spend significant portions of their operating budgets on outside contractors to remediate inaccessible web content, with little or no guarantee that they will come into conformance within the time frames required by the 2024 final rule.

While it is possible that some cities, counties, FQHCs, and other recipients would be able to meet the necessary success criteria prior to the 2024 final rule's implementation dates, the Department is concerned that noncompliance among a significant portion of those recipients would lead to a significant increase in litigation.

Section 504 is enforceable by a private right of action.[51] It is possible that a court could allow private litigants exercising this right to obtain injunctive relief and attorneys' fees[52] from recipients based on a recipient's noncompliance with the 2024 final rule. The risk recipients face from private lawsuits is heightened for reasons that were not specifically addressed in the 2024

[51] *See Barnes v. Gorman*, 536 U.S. 181, 185 (2002) (stating that section 504 is enforceable through a private right of action).
[52] *See* 29 U.S.C. 794a(b) ("In any action or proceeding to enforce or charge a violation of a provision of this subchapter, the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs.").

final rule, namely that some recipients may be generating web content that would be covered by the 2024 final rule using generative AI[53] (artificial intelligence) that is potentially inaccessible.[54]

In addition, the 2023 section 504 NPRM included proposed exceptions for certain course content used by postsecondary institutions and elementary and secondary schools;[55] however, the Department reconsidered those exceptions in light of significant negative public comments responding to the NPRM and did not include them in the 2024 final rule.[56] The exclusion of those proposed exceptions from the 2024 final rule may have led to confusion, given this change, requiring additional time for recipients to understand their compliance obligations. By extending the compliance dates, this IFR will afford educational institutions time to assess the substance of the 2024 final rule. Additionally, this IFR will afford those educational institutions an opportunity to comment on their experiences complying with the success criteria of WCAG 2.1.

While the Department has not received recent comments from members of the disability community or disability rights organizations concerning the 2024 final rule's web content and

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[53] *See, e.g.*, National Association of Counties, *2024 National Association of Counties (NACo) Generative AI Membership Survey Report* at 8 (June 2024), https://naco.sharefile.com/share/view/s0cf368e9b14d4267a297a2e98290873a ("Data shows that GenAI is used within county operations and services at minimum monthly by 60% of respondents"); National Conference of State Legislatures, *Artificial Intelligence in Government: The Federal and State Landscape* at 8 (Nov. 2024), https://documents.ncsl.org/wwwncsl/Technology/Government-State-Fed-Landscape-v02.pdf [https://perma.cc/7T4A-BKYW] ("State agencies are using tools that have a range of capabilities [including] content generation."); Cascade PBS, *Washington City Officials are Using ChatGPT for Government Work* (Aug. 26, 2025) https://www.cascadepbs.org/news/2025/08/wa-city-officials-are-using-chatgpt-to-write-government-documents/#:~:text=Some%20records%20show%20the%20potential,the%20time%2C%E2%80%9D%20she%20said [https://perma.cc/ZCT9-2JT6] (profiling use of AI by local governments in Washington, and noting that "public servants have used generative AI to write emails to constituents, mayoral letters, policy documents and more"). Among other uses, local government entities are notably using AI to generate content in the educational context. *See, e.g.*, Anthropic, *Anthropic Education Report: How Educators use Claude* (Aug. 27, 2025), https://www.anthropic.com/news/anthropic-education-report-how-educators-use-claude [https://perma.cc/4UBS-NJ7G] ("The most prominent use of AI [among educators] was for curriculum development."). *See also* Everson et al., *Uptake of Generative AI Integrated With Electronic Health Records in US Hospitals*, JAMA network Open (Dec. 1, 2025), https://pubmed.ncbi.nlm.nih.gov/41385223/#:~:text=Overall%2C%20762%20hospitals%20(weighted%20percentage,43.7%25)%20were%20delayed%20adopters (stating that more than half of hospitals responding to the survey indicated they would likely implement generative AI by the end of 2025).

[54] *See, e.g.*, New York City Bar, *The Impact of the Use of AI on People with Disabilities* (June 12, 2025), https://www.nycbar.org/reports/the-impact-of-the-use-of-ai-on-people-with-disabilities/#:~:text=SUMMARY,anti%2Ddiscrimination%20frameworks%20for%20AI [https://perma.cc/M9YE-W9CK] (noting that generative AI may produce inaccessible outputs if it relies on inaccessible inputs); Northeastern University, *AI and Accessibility*, https://tealab.sites.northeastern.edu/generative-ai-and-accessibility/ [https://perma.cc/M9B4-2TPN] ("State-of-the-art image generation models do not output alternative (alt) text with their images, rendering them largely inaccessible to screen reader users") (last visited Feb. 5, 2026).

[55] 88 FR 63392, 63509-10 (Sept. 14, 2023).

[56] *See* 89 FR 40145-51.

mobile app accessibility requirements, we recognize that delaying compliance dates to provide a more feasible timeline for recipients to comply with web accessibility obligations may lead to a corresponding delay in increased access for people with disabilities. We assume that there may be some reliance interests among people with disabilities related to the current implementation dates of May 11, 2026, and May 10, 2027, and that delaying those dates may negatively impact those interests. However, given that (1) recipients are not yet required to conform with the success criteria of WCAG 2.1, the IFR only delays the implementation of those conformance requirements to provide time for additional comments and consideration: and (2) the potential for copious and costly litigation if the implementation dates are not pushed back, the Department believes that the benefits of this IFR outweigh the reliance interests. Moreover, the delay of the compliance dates does not relieve recipients of their other obligations under Section 504, including, for example, under 45 CFR 84.68(b)(7) to make reasonable modifications when necessary to ensure accessibility and avoid discrimination on the basis of disability. For example, if a person with a disability is a student at a college or university that receives Federal financial assistance from HHS and is enrolled in a class for which course materials are posted on the college or university website, the Department expects that the college or university will make those necessary course materials accessible for the student with a disability, so long as it does not impose an undue burden on the college or university or constitute a fundamental alteration of its programs or activities. Similarly, the Department expects that State agencies responsible for enrolling eligible persons in public benefit programs, including Medicaid, and whose websites provide information on, and a means to apply for, such benefits, would make reasonable modifications to ensure that state residents with a disability who would otherwise be eligible for such benefits are able to access the needed information and apply for benefits.

We also recognize that some interested parties may argue that if recipients believe it would either be impossible or highly burdensome to comply with the success criteria of WCAG 2.1 as required by the 2024 final rule by the existing implementation dates, they may argue that

taking certain actions required by the 2024 final rule would constitute a fundamental alteration or undue burden. The 2024 final rule does not require recipients to take actions that would result in a fundamental alteration to the nature of a program or activity or in undue financial and administrative burdens.[57] However, the Department does not believe these defenses are sufficient in light of the litigation risks described above. The Department intended the fundamental alteration and undue burden defenses to apply only to rare situations - and, thus, expected that recipients would need to invoke such exceptions only infrequently. Indeed, in the preamble to the 2024 final rule, the Department stated that it believed modifying web content and mobile apps to conform with the success criteria of WCAG 2.1 would not amount to a fundamental alteration for most recipients.[58] However, based on the aforementioned comments received by the Department and OMB, the Department now believes that significant numbers of small State and local governments, FQHCs, and other recipients may persuasively argue that full conformance would amount to a fundamental alteration or undue burden. Widespread invocation of the fundamental alteration and/or undue burden defenses was not expected when the 2024 final rule was published, but the Department now believes such invocation is likely.

The existence of defenses against claims should not guide the Department's decisions in setting the 2024 final rule's compliance deadlines. The 2024 final rule's deadlines were not intended to hinge on the availability of defenses in eventual litigation. If the Department took the contrary view, that would require recipients to engage in litigation because of compliance burdens that are not entirely within their control. Although recipients could prevail on a defense, that does not mitigate the litigation risks described above.

Whether the fundamental alteration or undue burden defenses apply depends on the specific facts and circumstances; the heads of covered entities or their designees must assess the defenses after considering all resources available for use in the funding and operation of a

[57] *See* 45 CFR 84.88.
[58] *See* 89 FR 40155.

program or activity, and develop a written statement of the reasons for their conclusion that either of the defenses applies.[59] In other words, a significant number, possibly even the majority of recipients would have to devote significant amounts of time and money to first review their operating budgets, consider all available options for compliance, and then ultimately make a determination before responding to either complaint investigations from the Department or lawsuits alleging noncompliance with section 504. The time and costs associated with such review, investigation, and potential litigation were not fully considered in the Regulatory Impact Analysis for the 2024 final rule. Additionally, widespread reliance on fundamental alteration and undue burden defenses would lead to a situation where an unspecified number of recipients do not conform with the success criteria of WCAG 2.1 as required by the 2024 final rule and, at least for some period of time, do not know the extent to which they are required to conform with the success criteria of WCAG 2.1. Such a situation would lead to increased uncertainty among recipients, the exact opposite of the intent of the 2024 final rule.

While this IFR is limited to extending the 2024 final rule's compliance dates at § 84.84(b), the Department plans to engage in future rulemaking related to the substantive requirements of the 2024 final rule. During the extension period, the Department will consider issuing an NPRM providing members of the public with an opportunity to comment on the substance of the 2024 final rule and any changes proposed by the Department, including any changes that would affect the web content and mobile app accessibility requirements. If the Department does not issue such an NPRM and if circumstances suggesting further delays of this deadline do not exist, the Department fully anticipates implementing the regulation at the new deadline. Regardless of the compliance dates, recipients have an ongoing obligation to ensure that their programs and activities offered using web content and mobile apps are accessible to individuals with disabilities in accordance with their other obligations under section 504.

III. Regulatory Amendments

[59] 45 CFR 84.88.

This IFR extends by one year the compliance dates included in § 84.84(b)(1) and (2) of the Department's regulations implementing section 504. As discussed in Sections I and II of this preamble, these regulatory amendments are needed to make sure recipients have sufficient time to achieve compliance with the requirements of the 2024 final rule in light of their reported resource constraints and staffing limitations as the rule's compliance dates approach and for the Department to consider whether some of the regulatory provisions could be made less burdensome. Absent these amendments, recipients would be subject to burdens from rushed compliance efforts in advance of the compliance dates and significant litigation risk after the dates pass. The amendments do not alter any other provisions from the 2024 final rule.

Section 84.84(b) establishes the compliance dates by which recipients must ensure that the web content and mobile applications they provide or make available, directly or through contractual, licensing, or other arrangements, conform with the success criteria of WCAG 2.1. Before this IFR, paragraph (b)(1) required recipients with fifteen (15) or more employees to conform with the success criteria of WCAG 2.1 starting on May 11, 2026. Paragraph (b)(2) required recipients with fewer than fifteen (15) employees to conform with the success criteria of WCAG 2.1 starting on May 10, 2027.

This IFR amends paragraph (b)(1) by extending the compliance date for recipients with fifteen (15) or more employees by one year, from May 11, 2026, to May 11, 2027. It also amends paragraph (b)(2) by extending the compliance date for recipients with fewer than fifteen (15) employees by one year, from May 10, 2027, to May 10, 2028.

IV. Severability

The Department's position is that each of the amendments in this IFR serve a vital, related, but distinct purpose. The Department also confirms that each of the amendments is intended to operate independently of each other and that the potential invalidity of one amendment should not affect the other amendments. The Department would adopt any of the amendments independent to, and regardless of, the invalidity of a separate amendment.

As discussed, this rulemaking will amend the 2024 final rule's § 84.84(b) compliance dates so that large recipients would have until May 11, 2027, to comply with the rule and small recipients would have until May 10, 2028, to comply with the same. Each of these extensions are severable.

V. Regulatory Process Matters

A. Administrative Procedure Act

The Department issues this IFR without prior public notice and comment pursuant to two separate and independent exceptions in the Administrative Procedure Act ("APA"). The first applies to rules "relating to agency management or personnel or to public property, loans, grants, benefits, or contracts," under 5 U.S.C. 553(a)(2). The second, under 5 U.S.C. 553(b)(B), applies when an agency, for good cause, finds that such procedures are impracticable, unnecessary, or contrary to the public interest, and without a delayed effective date pursuant to 5 U.S.C. 553(d)(1).

Section 504 concerns nondiscrimination requirements conditioned on the receipt of Federal financial assistance, and more particularly on the receipt of any Federal "grant," "cooperative agreement," "loan," "contract (other than a direct Federal procurement contract or a contract of insurance or guaranty)," "subgrant," "contract under a grant" or "any other arrangement by which the Department provides or otherwise makes available assistance." 45 CFR 84.10; *see also* 45 CFR 84.5 (requiring funding recipient sign contractual assurance of compliance with the section 504 regulations).

The Department's definition of Federal financial assistance for purposes of section 504 is found at 45 CFR 84.10, which provides that such assistance means "any grant, cooperative agreement, loan, contract (other than a direct Federal procurement contract or a contract of insurance or guaranty), subgrant, contract under a grant or any other arrangement by which the Department provides or otherwise makes available assistance in the form of: (1) Funds; (2) Services of Federal personnel; (3) Real and personal property or any interest in or use of such

property, including: (i) Transfers or leases of such property for less than fair market value or for reduced consideration; and (ii) Proceeds from a subsequent transfer or lease of such property if the Federal share of its fair market value is not returned to the Federal Government; and (4) Any other thing of value by way of grant, loan, contract, or cooperative agreement." The Department has carefully reviewed the categories of activities listed in the 5 U.S.C. 553(a)(2) exception to notice and comment rulemaking, the definition of Federal financial assistance at 45 CFR 84.10, and the types of Federal financial assistance provided by the Department. Based on this review, the Department has concluded that the categories of exempt activities in section 553(a)(2) encompass everything contained in the Department's definition at 45 CFR 84.10 and all of the types of Federal financial assistance provided by the Department. Thus, the Department can utilize the 5 U.S.C. 553(a)(2) exception to notice and comment for this rulemaking.

First, 45 CFR 84.10's reference to any "grant, cooperative agreement,[60] loan, or contract" is covered by 5 U.S.C. 553(a)(2)'s inclusion of "a matter relating to . . . loans, grants, benefits, or contract" in the exemption from the requirements of Section 553. Second, the inclusion of "subgrant" and "contract under a grant" is similarly covered by that provision. Third, "any other arrangement by which the Department provides or otherwise makes available assistance in the form of . . . [r]eal and personal property or any interest in or use of such property, including: (i) [t]ransfers or leases of such property for less than fair market value or for reduced consideration; and (ii) [p]roceeds from a subsequent transfer or lease of such property if the Federal share of its fair market value is not returned to the Federal Government" as Federal financial assistance under 45 CFR 84.10 is covered by the exemption in 5 U.S.C. 553(a)(2) for "a matter relating to . . . public property [or] grants." Fourth, "any other arrangement by which the Department provides or otherwise makes available assistance in the form of . . . services of

[60] A cooperative agreement is "an award of financial assistance that, consistent with 31 U.S.C. 6305, is used to enter into the same kind of relationship as a grant (see definition of grant in § 182.650), except that substantial involvement is expected between the Federal agency and the recipient when carrying out the activity contemplated by the award." 2 CFR 182.620. Thus, a cooperative agreement would constitute a grant.

Federal personnel" under 45 CFR 84.10 is covered by 5 U.S.C. 553(a)(2)'s inclusion of "a matter relating to agency management or personnel"; furthermore, the detailing of Federal personnel occurs within the context of, or in lieu of, monies disbursed under grants, which are explicitly covered in 5 U.S.C. 553(a)(2). Fifth, 45 CFR 84.10's inclusion of "any other arrangement by which the Department provides or otherwise makes available assistance in the form of: (1) [f]unds; . . . [or] (4) [a]ny other thing of value by way of grant loan, contract, or cooperative agreement" as Federal financial assistance falls within and is covered by 5 U.S.C. 553(a)(2)'s exemption for "a matter relating to … personnel or to public property, loans, grants, benefits, or contracts."[61]

Further, invoking 5 U.S.C. 553(a)(2) is consistent with the U.S. Office for Management and Budget's (OMB) definition of Federal financial assistance under 2 CFR 200.1, which defines Federal financial assistance with the same categories as the Administrative Procedure Act's exception for rules "relating to agency management or personnel or to public property, loans, grants, benefits, or contracts," 5 U.S.C. 553(a)(2). With potentially limited exceptions not applicable to the Department, all the forms of Federal financial assistance set forth under 2 CFR 200.1 that the Department administers would fall under the "public property, loans, grants, benefits, or contracts" exception under section 553(a)(2) of the Administrative Procedure Act.[62]

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[61] The Department acknowledges that it has adopted substantive regulatory requirements under section 504 through notice and comment rulemaking. It did so pursuant to a policy adopted by the Department in 1971 that waived the APA's statutory exemption from procedural rulemaking requirements for rules and regulations relating to public property, loans, grants, benefits, or contracts and instructed that the APA's good cause exception be used sparingly (Richardson Waiver). 36 FR 2532 (Feb. 5, 1971). The Richardson Waiver, thus, required the Department to use the APA's notice and comment rulemaking procedures for these types of matters. The Richardson Waiver has been rescinded. *See Policy on Adhering to the Text of the Administrative Procedure Act*, 90 FR 11029 (Mar. 3, 2025). With respect to the promulgation of rules to implement Section 504, the Department is, nevertheless, pursuing a substantive change to the regulatory definition of "disability" through notice and comment rulemaking. *See* Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance 90 FR59478 (Dec. 19, 2025) (notice of proposed rulemaking). The Department may continue to use notice and comment rulemaking, as appropriate, for substantive changes to its section 504 rules.

[62] *See also Nondiscrimination on the Basis of Handicap in Federally Assisted Programs—Suspension of Guidelines with Respect to Mass Transportation,* 46 FR 40687 (Aug. 11, 1981) (invoking the exception at 5 U.S.C. 553(a)(2) to suspend Department of Justice guidelines regarding prohibiting disability discrimination in transportation programs and activities receiving Federal financial assistance).

For these reasons, the Department has authority to issue this final rule without prior public notice and comment, and without a delayed effective date, under 5 U.S.C. 553(a)(2).

Notice and comment rulemaking is also not needed in this case because good cause exists to issue an interim final rule with an immediate effective date. Under 5 U.S.C. 553(b)(B), notice and public procedures are not required when an agency, for good cause, finds that such procedures are "impracticable, unnecessary, or contrary to the public interest," and the agency incorporates the finding and a brief statement of the reasons therefore in the rulemaking. Here, the compliance dates in the 2024 final rule are quickly approaching, including the immediate first compliance date of May 11, 2026; this IFR is limited to extending the compliance dates. As discussed in Sections I and II of this preamble, circumstances outside of the Department's and recipients' control make these regulatory amendments necessary to ensure recipients have sufficient time to achieve compliance with the requirements of § 84.84(b) of the 2024 final rule. This is in light of the Department's belief that the compliance dates are not achievable in the set time or would result in significant expenses and/or litigation risks for small recipients because of the reported resource constraints facing recipients as those dates imminently approach. Absent these amendments, recipients would be subject to significant litigation risk after the compliance dates passed. Because of the private right of action, and the possibility that a court may consider the Department's 2024 final rule when ruling on a private right of action, the Department does not have the option to take no enforcement action or offer a statement of policy regarding its intent to not enforce the rule pending improvements to the circumstances for covered entities' compliance. Moreover, because the Department does not have time to go through notice-and-comment rulemaking before the effective dates of § 84.84(b) of the 2024 final rule, the only way for the Department to delay the consequences of this rule is to forgo prepublication notice and comment. Notwithstanding the presence of good cause to promulgate this compliance extension without notice and comment, the Department has decided, as a voluntary matter, to promulgate this action as an IFR with a post-promulgation 60-day public comment period.

In addition, the nature of this IFR is to delay restrictions, rather than impose new ones, which alleviates the central concern of the Administrative Procedure Act to create "safeguards . . . against arbitrary official encroachment on private rights."[63] When an agency does not burden regulated parties "it generally does not exercise its coercive power over" those parties "and thus does not infringe upon areas that courts often are called upon to protect."[64]

Furthermore, as discussed above, DOJ has recently issued an IFR[65] that extends the compliance dates of its web and mobile app accessibility rule under title II of the ADA. This is an added basis to find that notice and comment is impracticable, unnecessary, and/or contrary to the public interest, because the Department's 2024 rule was informed by Congress's intention that title II and section 504 be interpreted consistently.[66] The Department specifically noted that it coordinated with DOJ with respect to technical standards applicable to web content and mobile apps and sought "to eliminate or minimize instances where recipients that are also public entities under title II will be held to different standards," with the goal of avoiding "unnecessary confusion among recipients."[67] The Department also responded to commenters seeking different compliance deadlines from those in the NPRM by noting that "changing compliance dates runs the risk of introducing inconsistency with other rulemakings where recipients that are also covered by those rulemakings would be subject to different compliance dates."[68] Given the short timeframe between DOJ's promulgation of its IFR and the imminent compliance date of the Department's 2024 final rule, there is good cause to dispense with prior notice and comment.

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[63] *United States v. Morton Salt Co.*, 338 U.S. 632, 644 (1950); *see also* Douglas H. Ginsburg, Steven Menashi, *Our Illiberal Administrative Law*, 10 NYU J.L. & Liberty 475, 521 (2016) ("The APA was intended to give the public a way to get relief from administrative excess.").
[64] *Heckler v. Chaney*, 470 U.S. 821, 832 (1985) (emphasis omitted).
[65] 91 FR 20902 (Apr. 20, 2026).
[66] 89 FR 40066 ("[T]o fulfill Congress's intent that title II of the ADA and section 504 be interpreted consistently, the rule contains provisions that mirror the corresponding provisions in the title II ADA regulation.").
[67] *Id.* at 40131.
[68] *Id.* at 40133.

For these reasons, the Department for good cause finds that following pre-publication notice-and-comment procedures for this rulemaking would be impracticable, unnecessary, or contrary to the public interest under 5 U.S.C. 553(b)(B).

In addition, this IFR is effective immediately without a delayed effective date pursuant to 5 U.S.C. 553(d)(1). Under 5 U.S.C. 553(d)(1), there is no requirement for a delayed effective date for substantive rules that "grant[] or recognize[] an exemption or relieve[] a restriction." This IFR relieves a restriction, in the form of existing dates for compliance with regulatory requirements.

B. Executive Orders 12866 and 13563 (Regulatory Review)

The Office of Management and Budget has determined that this IFR is an economically significant regulatory action under section 3(f)(1) of Executive Order ("E.O.") 12866. Accordingly, this rule has been submitted to OMB for review.

This IFR has been drafted and reviewed in accordance with section 1(b) of E.O. 12866,[69] and section 1(b) of E.O. 13563,[70] which supplements and reaffirms the principles of E.O. 12866. These orders direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits.[71] E.O. 13563 also recognizes that some benefits and costs are difficult to quantify and provides that, where appropriate and permitted by law, agencies may consider and discuss qualitatively values that are difficult or impossible to quantify.[72]

As explained in Sections I and II of this preamble, the Department has identified recent communications submitted to the Federal government indicating that the Department underestimated burdens to recipients, especially smaller recipients, when setting the compliance dates in the 2024 final rule. There are also reported resource constraints and staffing limitations

[69] 58 FR 51735.
[70] 76 FR 3821, 3821 (Jan. 18, 2011).
[71] 58 FR 51735; 76 FR 3821.
[72] 58 FR 51735; 76 FR 3821.

for recipients as they work towards compliance with the rule. This IFR extends the 2024 final rule's compliance dates for § 84.84(b) in light of these recent communications to make sure recipients have additional time to come into full compliance with the rule.

Data limitations make the costs and benefits of this IFR difficult to quantify. However, the Department assessed the costs and benefits of these one-year longer compliance dates in the Regulatory Impact Analysis ("RIA") that accompanied the 2024 final rule.[73]

We assessed the potential impacts of this IFR by comparing the policy scenario to an analytic baseline scenario of allowing the 2024 final rule to take effect under its initial implementation timeline. In the baseline, recipients incur initial costs (familiarization, testing, and remediation) over the first two or three years: two years for large recipients and three years for small recipients. From year four onward, recipients incur implementation costs which were not estimated to vary from year to year. In the baseline, benefits grow over the first two or three years as recipients complete the initial familiarization, testing, and remediation activities. From year four onward, some benefits remain constant (e.g., time savings from more accessible web sites), while the benefits (higher earnings) from improved education for students with disabilities through accessible classes continue to grow as the number of students completing accessible curricula increases.

By pushing out implementation by one year, this IFR would eliminate both costs and benefits in the first year that were estimated in the RIA while adding another year of costs and benefits in the future. While this will shift any benefits in that first year to a year in the future, resulting in discounted benefits in the future and a lower total benefit for the rulemaking, the IFR will also shift costs to the future. This shift of costs to the future would result in overall discounted costs as they are pushed further into the future.

This IFR does not impose new substantive requirements, and it does not expand the scope

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[73] *See* U.S. Dep't of Health and Hum. Servs. Regulatory Impact Analysis at 60, https://www.hhs.gov/sites/default/files/sec-504-ria-final-rule-2024.pdf (hereinafter "2024 RIA") (Table 11).

of existing obligations. Instead, by extending the compliance deadlines established in § 84.84(b) of the 2024 final rule, the Department expects this IFR better aligns with the current status of compliance. The IFR also mitigates recipients' litigation exposure associated with impending compliance deadlines, and it avoids burdens to recipients from rushed compliance efforts.

Based on the foregoing, the Department believes that this IFR is consistent with the principles of E.O. 12866 and E.O. 13563, including the requirement that, to the extent permitted by law, the Department adopt a regulation only upon a reasoned determination that its benefits justify its costs and select a regulatory approach that maximizes net benefits.[74]

C. Costs and Benefits

As noted above, the costs and benefits for this IFR will result from delaying the implementation dates for full conformance with WCAG 2.1 by one year. In the 2024 final rule, the Department provided a Regulatory Impact Analysis ("RIA") that estimated yearly annualized costs and benefits of the 2024 final rule web content and mobile accessibility section at $934.7 million and $1,265.6 million, respectively (using a 7% discount rate and reported in constant 2022 dollars).[75] By pushing compliance out by one year, this IFR would lower cost (i.e., generating cost savings) while also lowering benefits (i.e., generating offsetting losses in benefits).[76]

Using estimates in the 2024 final rule, Tables 1 and 2 show that by pushing compliance out by one year, this IFR would lower annualized costs by $114.3 million or $93.3 million, and discounted total costs by $803.1 million or $796 million (using a 7% or a 3% discount rate, and constant 2022 dollars).

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[74] *See* 58 FR at 51735; 76 FR at 3821.

[75] *See* 89 FR 40175, Table 1. By contrast, if DOJ had not already issued a compliance-date extension, the focus of this analysis would be the effects experienced by entities only subject to HHS's 2024 final rule, per row (2) of Summary Table C (89 FR 40176).

[76] The decrease in costs would be the result of an extra year for recipients to ensure that they come into compliance with the success criteria of WCAG 2.1 as required by the 2024 final rule. Implementation costs would be pushed into the future. The decrease in benefits would be the result of individuals with disabilities not being able to rely on recipient web content and mobile apps conforming with the success criteria of WCAG 2.1 as required by the 2024 final rule for an additional year. The resulting loss in accessibility, and the tangible benefits such accessibility would provide to individuals with disabilities such as improved health outcomes and educational opportunities, amounts to a loss in benefits during that one year period.

Table 1. 10-year undiscounted and discounted (at 7%) cost savings from a one-year implementation delay, in 2022 dollars (millions).

	Baseline		IFR		Cost Savings	
Year	Undiscounted	Discounted	Undiscounted	Discounted	Undiscounted	Discounted
2026	$1,205.4	$1,126.5	$0.0	$0.0	-$1,205.4	-$1,126.5
2027	$1,368.7	$1,195.5	$1,205.4	$1,052.8	-$163.3	-$142.7
2028	$958.8	$782.7	$1,368.7	$1,117.3	$409.9	$334.6
2029	$786.5	$600.0	$958.8	$731.5	$172.3	$131.4
2030	$786.5	$560.8	$786.5	$560.8	$0.0	$0.0
2031	$786.5	$524.1	$786.5	$524.1	$0.0	$0.0
2032	$786.5	$489.8	$786.5	$489.8	$0.0	$0.0
2033	$786.5	$457.8	$786.5	$457.8	$0.0	$0.0
2034	$786.5	$427.8	$786.5	$427.8	$0.0	$0.0
2035	$786.5	$399.8	$786.5	$399.8	$0.0	$0.0
Totals	**$9,038.5**	**$6,564.7**	**$8,252.0**	**$5,761.6**	**-$786.5**	**-$803.1**
Annualized		$934.7		$820.3		-$114.3

Table 2. 10-year undiscounted and discounted (at 3%) cost savings from a one-year implementation delay, in 2022 dollars (millions).

	Baseline		IFR		Cost Savings	
Year	Undiscounted	Discounted	Undiscounted	Discounted	Undiscounted	Discounted
2026	$1,205.4	$1,170.1	$0.0	$0.0	-$1,205.4	-$1,170.3
2027	$1,368.7	$1,290.0	$1,205.4	$1,136.2	-$163.3	-$154.0
2028	$958.8	$877.3	$1,368.7	$1,252.6	$409.9	$375.1
2029	$786.5	$698.7	$958.8	$851.9	$172.3	$153.1
2030	$786.5	$678.4	$786.5	$678.5	$0.0	$0.0
2031	$786.5	$658.6	$786.5	$658.7	$0.0	$0.0
2032	$786.5	$639.4	$786.5	$639.5	$0.0	$0.0
2033	$786.5	$620.8	$786.5	$620.9	$0.0	$0.0
2034	$786.5	$602.7	$786.5	$602.8	$0.0	$0.0
2035	$786.5	$585.2	$786.5	$585.2	$0.0	$0.0
Totals	**$9,038.5**	**$7,821.3**	**$8,252.0**	**$7,026.2**	**-$786.5**	**-$796.0**
Annualized		$916.9		$823.7		-$93.3

Tables 3 and 4 show that by pushing compliance out by one year, this IFR would lower annualized benefits by $204.6 million or $189.8 million, and discounted total benefits by $1,436.8 million or $1,619.2 million (using a 7% or 3% discount rate, and constant 2022 dollars).

Table 3. 10-year undiscounted and discounted (at 7%) foregone benefits from a one-year implementation delay, in 2022 dollars (millions).

	Baseline		IFR		Foregone Benefits	
Year	Undiscounted	Discounted	Undiscounted	Discounted	Undiscounted	Discounted
2026	$350.3	$327.3	$0.0	$0.0	-$350.3	-$327.3
2027	$700.4	$611.8	$350.3	$305.9	-$350.1	-$305.8
2028	$1,111.7	$907.4	$700.4	$571.7	-$411.3	-$335.7
2029	$1,434.3	$1,094.2	$1,111.7	$848.1	-$322.6	-$246.1
2030	$1,495.3	$1,066.1	$1,434.3	$1,022.6	-$61.0	-$43.5
2031	$1,556.3	$1,037.0	$1,495.3	$996.4	-$61.0	-$40.6
2032	$1,617.3	$1,007.1	$1,556.3	$969.2	-$61.0	-$38.0
2033	$1,678.3	$976.8	$1,617.3	$941.3	-$61.0	-$35.5
2034	$1,739.3	$946.0	$1,678.3	$912.9	-$61.0	-$33.2
2035	$1,800.3	$915.2	$1,739.3	$884.1	-$61.0	-$31.0
Totals	**$13,483.1**	**$8,889.0**	**$11,682.9**	**$7,452.2**	**-$1,800.3**	**-$1,436.8**
Annualized		$1,265.6		$1,061.0		-$204.6

Table 4. 10-year undiscounted and discounted (at 3%) foregone benefits from a one-year implementation delay, in 2022 dollars (millions).

	Baseline		IFR		Foregone Benefits	
Year	Undiscounted	Discounted	Undiscounted	Discounted	Undiscounted	Discounted
2026	$350.3	$339.8	$0.0	$0.0	-$350.0	-$339.8
2027	$700.4	$659.7	$350.3	$330.2	-$349.6	-$329.5
2028	$1,111.7	$1,016.6	$700.4	$641.0	-$410.4	-$375.6
2029	$1,434.3	$1,273.4	$1,111.7	$987.7	-$321.6	-$285.7
2030	$1,495.3	$1,288.9	$1,434.3	$1,237.2	-$60.0	-$51.7
2031	$1,556.3	$1,302.5	$1,495.3	$1,252.3	-$59.9	-$50.2
2032	$1,617.3	$1,314.1	$1,556.3	$1,265.4	-$60.0	-$48.8
2033	$1,678.3	$1,324.0	$1,617.3	$1,276.7	-$60.0	-$47.3
2034	$1,739.3	$1,332.2	$1,678.3	$1,286.2	-$60.0	-$46.0
2035	$1,800.3	$1,338.8	$1,739.3	$1,294.2	-$60.0	-$44.6
Totals	**$13,483.1**	**$11,190.0**	**$11,682.9**	**$9,570.8**	**-$1,791.4**	**-$1,619.2**
Annualized		$1,311.8		$1,122.0		-$189.8

This means that based on the 2024 final rule RIA, this IFR would result in a net decrease in benefits by $90.2 million or $96.5 million on an annualized basis and $633.7 million or $823.2 million on a total discounted basis (using a 7% or 3% discount rate, and constant 2022 dollars).

While cost savings estimated by tables 1 and 2 ($114.3 million and $93.3 million, respectively) are lower than the foregone benefits estimated by tables 3 and 4 ($204.6 million and $189.9 million, respectively), the estimated cost savings do not factor in additional likely cost savings that are either unquantifiable or difficult to quantify with a high degree of accuracy

in a short period of time. For example, unquantifiable savings will likely result from recipients avoiding making the fact dependent determination of whether a recipient may invoke a defense of fundamental alteration or undue burden. For example, a recipient's head or their designee would not have to spend time gathering evidence and making a determination of whether full remediation of its web content to conform with the success criteria of WCAG 2.1 amounts to a fundamental alteration. Additional unquantifiable savings will likely result from recipients avoiding legal fees from individuals challenging their noncompliance with WCAG 2.1.

D. Executive Order 14294 (Fighting Overcriminalization in Federal Regulations)

E.O. 14294 requires agencies promulgating regulations with criminal regulatory offenses potentially subject to criminal enforcement to "explicitly describe the conduct subject to criminal enforcement, the authorizing statutes, and the mens rea standard applicable to" each element of those offenses.[77] This rule does not impose a criminal regulatory penalty and is thus exempt from E.O. 14294's requirements.

E. Executive Order 14192 (Unleashing Prosperity Through Deregulation)

E.O. 14192 requires an agency, unless prohibited by law, to identify at least ten (10) existing regulations to be repealed when the agency publicly proposes for notice and comment or otherwise promulgates a new regulation.[78] In furtherance of this requirement, section 3(c) of the order requires that "any new incremental costs associated with new regulations shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least ten (10) prior regulations."[79]

Deregulatory actions include final actions that reduce compliance costs below zero, which may include repealing, revising, or streamlining existing regulations.[80] This IFR revises the 2024 final rule by extending the rule's web and mobile app accessibility compliance dates by

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[77] 90 FR 20363, 20363 (May 9, 2025).
[78] 90 FR 9065, 9065 (Jan. 31, 2025).
[79] 90 FR 9065.
[80] Office of Management and Budget, *OMB Mem. M-25-20: Guidance Implementing Section 3 of Executive Order 14192, "Unleashing Prosperity Through Deregulation"* (Mar. 26, 2025).

one year. As explained in the preamble, extending the compliance dates is expected to avoid burdens to recipients in the near term from rushed compliance efforts. It is also expected to reduce litigation exposure associated with the 2024 final rule's impending compliance deadlines, including potential liability for attorneys' fees. We estimate that the IFR will result in $52.18 million in annualized cost savings using a 7% discount rate, adopting a perpetual time horizon of analysis with 2024 as the base year for discounting, and reported using constant 2024 dollars.[81]

Accordingly, the Department believes that this IFR constitutes a deregulatory action for purposes of E.O. 14192.

F. Executive Order 13132 (Federalism)

E.O. 13132 requires Executive Branch agencies to consider whether a rule will have federalism implications—that is, whether the rule will have substantial direct effects on State or local governments, on the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government.[82]

The Department's regulations implementing Section 504 apply to programs and activities that receive financial assistance from the Department, including the programs and activities of State and local government entities and, therefore, implicates federalism considerations. State and local government recipients have been subject to section 504 for decades. Accordingly, the application of section 504 and the Department's implementing regulations is not novel for State or local governments.

This IFR does not alter the substantive requirements adopted in the 2024 final rule, including the scope of coverage or the interaction between Federal requirements and State or local law. Instead, this rule solely extends the 2024 final rule's compliance dates for § 84.84(b). As a result, this IFR does not impose new obligations on State or local governments, affect States' policymaking discretion, or change the distribution of power and responsibilities among

[81] The estimate of $52.18 million in 2024 dollars corresponds to $49.1 million in 2022 dollars due to 6.2742% in estimated inflation between 2022 and 2024.
[82] 64 FR 43255, 43258 (Aug. 4, 1999).

the various levels of government.

Because this IFR merely adjusts the timing of compliance with existing requirements and is expected to reduce litigation exposure of State and local governments and avoid burdens to recipients from rushed compliance efforts, the Department has determined that it does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement under E.O. 13132.

G. Executive Order 12988 (Civil Justice Reform)

This IFR meets the applicable standards set forth in sections 3(a) and (b)(2) of E.O. 12988 to specify provisions in clear language.[83] Pursuant to section 3(b)(1)(I) of the order,[84] nothing in this IFR or any previous rule (or in any administrative policy, directive, ruling, notice, guideline, guidance, or writing) directly relating to the program that is the subject of this IFR is intended to create any legal or procedural rights enforceable against the United States.

H. Regulatory Flexibility Act

This IFR does not require a regulatory flexibility analysis under the Regulatory Flexibility Act ("RFA")[85] because, for the reasons described above in Section V.A of this preamble, the Department issues this IFR without notice and comment.[86]

The Department seeks feedback on the impact of the 2024 final rule and this IFR. The Department seeks feedback on the numbers of recipients affected by these rules and the costs and benefits of both rules. The Department also seeks feedback on whether the agency should publish additional rulemaking to consider additional regulatory alternatives to make the 2024 final rule less costly for small recipients.

I. Congressional Review Act

The Office of Information and Regulatory Affairs has determined that this rule meets the

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[83] *See* 61 FR 4729, 4731–32 (Feb. 5, 1996).
[84] 61 FR 4731.
[85] 5 U.S.C. 603 and 604.
[86] *See Or. Trollers Ass'n v. Gutierrez*, 452 F.3d 1104, 1123–24 (9th Cir. 2006) (noting that the RFA does not apply when an agency validly invokes an exception to the public notice-and-comment requirements of 5 U.S.C. 553).

criteria set forth by Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (also known as the Congressional Review Act) under 5 U.S.C. 804(2). This rule will result in an annual effect on the economy of $100 million or more, but not a major increase in costs or prices or cause significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of companies based in the United States to compete with foreign-based companies in domestic and export markets. The rule merely extends the compliance dates in § 84.84(b) of the 2024 final rule by one year. Doing so does not impose new obligations on recipients.

For the reasons discussed herein, the Department issues this IFR without notice and comment or a delayed effective date pursuant to 5 U.S.C. 553(b)(B) and (d)(1). Accordingly, pursuant to 5 U.S.C. 808(2), the requirement for a 60-day delayed effective date does not apply to this rule.

J. Paperwork Reduction Act

This rule will not impose additional reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995.[87]

K. Unfunded Mandates Reform Act

Section 4(2) of the Unfunded Mandates Reform Act of 1995 excludes from coverage under that Act any proposed or final Federal regulation that "establishes or enforces any statutory rights that prohibit discrimination on the basis of race, color, religion, sex, national origin, age, handicap, or disability."[88] Accordingly, this rulemaking is not subject to the provisions of the Unfunded Mandates Reform Act.

VI. Electronic Submission of Comments and Posting of Public Comments

Interested persons are invited to participate in this rulemaking by submitting written comments on all aspects of this rule via one of the methods and by the deadline stated in the

[87] 44 U.S.C. 3501 *et seq.*
[88] 2 U.S.C. 1503(2).

DATES section. When submitting comments, please include "RIN 0945-AA30" in the subject field. The Department also invites comments that relate to the economic, environmental, or federalism effects that might result from this rule. Comments that will provide the most assistance to the Department in developing this rule will reference a specific portion of the rule, explain the reason for any recommended change, and include data, information, or authority that supports such recommended change. Commenters should be aware that the electronic Federal Docket Management System ("FDMS") will accept comments submitted prior to midnight Eastern Time on the last day of the comment period. Late comments are highly disfavored. The Department is not required to consider late comments.

Please note that all comments received are considered part of the public record and made available for public inspection at https://www.regulations.gov. Such information includes personally identifiable information ("PII") (such as your name and address). Interested persons are not required to submit their PII in order to comment on this rule. However, any PII that is submitted is subject to being posted to the publicly accessible https://www.regulations.gov site without redaction.

Confidential business information clearly identified in the first paragraph of the comment as such will not be placed in the public docket file.

The Department may withhold from public viewing information provided in comments that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of https://www.regulations.gov. To inspect the agency's public docket file in person, you must make an appointment with the agency. Please see the **FOR FURTHER INFORMATION CONTACT** paragraph above for agency contact information.

List of Subjects for 45 CFR Part 84

Administrative practice and procedure, Civil rights, Colleges and universities, Communications, Disabled, Discrimination, Equal access to justice, Federal financial assistance,

Health, Health care access, Health programs and activities, Individuals with disabilities, Medical care, Nondiscrimination, Public health, State and local requirements.

For the reasons stated above, the Department of Health and Human Services amends 45 CFR subtitle A, subchapter A, part 84 as set forth below:

PART 84—NONDISCRIMINATION ON THE BASIS OF DISABILITY IN PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

1. The authority citation for part 84 continues to read as follows:

Authority: 29 U.S.C. 794.

Subpart I-Web, Mobile, and Kiosk Accessibility

§ 84.84 [Amended]

2. Section 84.84 is amended by:

a. In paragraph (b)(1), removing the text “May 11, 2026” and adding in its place the text “May 11, 2027”; and

b. In paragraph (b)(2), removing the text “May 10, 2027” and adding in its place the text “May 10, 2028”.

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Robert F. Kennedy, Jr.,

Secretary,

Department of Health and Human Services.

[FR Doc. 2026-09266 Filed: 5/7/2026 4:15 pm; Publication Date: 5/11/2026]