

■ 3. Amend § 1040.12 by revising paragraph (a) to read as follows:

**§ 1040.12 Definitions.**

(a) *Covered employment* means employment practices covered by title VI, section 16 and section 401.

(1) Under title VI, such practices are those which, exist in a program where a primary objective of the Federal financial assistance is to provide employment; or

(2) Under section 16 and section 401, such practices include, but are not limited to, employment practices covered by title VI when alleging discrimination on the basis of sex.

\* \* \* \* \*

**§ 1040.5 [Amended]**

■ 4. Amend § 1040.5 by removing and reserving paragraph (c).

**§ 1040.6 [Amended]**

■ 5. Amend § 1040.6 by removing and reserving paragraph (c).

**§ 1040.8 [Removed and Reserved]**

■ 6. Remove and reserve § 1040.8.

■ 7. Amend § 1040.13 by revising paragraphs (c) and (d) to read as follows:

**§ 1040.13 Discrimination prohibited.**

\* \* \* \* \*

(c) *Type of Federal financial assistance.* A recipient, in determining the type of Federal financial assistance (i.e., disposition, services, financial aid, benefits, or facilities) which will be provided under any program, or the class of individuals to whom, or the situations in which the assistance will be provided, may not, directly or through contractual or other arrangements, utilize criteria or methods of administration which intentionally subject individuals to discrimination because of their race, color, national origin, or sex (when covered by section 16 and section 401) or have the effect of defeating or substantially impairing accomplishment of the objectives of the program with respect to individuals of a particular race, color, national origin, or sex (when covered by section 16 or section 401).

(d) *Site or location of facilities.* In determining the site or location of facilities, a recipient or applicant may not make selections with the intent of excluding individuals from, denying them the benefits of, or subjecting them to discrimination because of race, color, national origin, or sex (when covered by section 16 or 401) or with the intent of defeating or substantially impairing the accomplishment of the objectives of title VI or this subpart.

\* \* \* \* \*

**§ 1040.14 [Amended]**

■ 8. Amend § 1040.14 by removing and reserving paragraph (a)(2).

**§ 1040.72 [Amended]**

■ 9. Amend § 1040.72 by removing and reserving paragraphs (c) and (d).

**Subpart F [Removed]**

■ 10. Remove subpart F.

**Subparts G and H [Redesignated as Subparts F and G]**

■ 11. Redesignate subparts G and H as subparts F and G.

**§ 1040.102 [Amended]**

■ 12. Amend § 1040.102 by removing and reserving paragraph (d).

[FR Doc. 2025–08593 Filed 5–12–25; 9:30 am]

BILLING CODE 6450–01–P

**DEPARTMENT OF ENERGY**

**10 CFR Part 1040**

[DOE–HQ–2025–0015]

RIN 1903–AA24

**Rescinding New Construction Requirements Related to Nondiscrimination in Federally Assisted Programs or Activities**

**AGENCY:** Office of Civil Rights and EEO, Department of Energy (DOE).

**ACTION:** Direct final rule (DFR); request for comments.

**SUMMARY:** This DFR rescinds certain new construction requirements related to disability nondiscrimination in federally assisted programs or activities.

**DATES:** The final rule is effective July 15, 2025, unless significant adverse comments are received by June 16, 2025. Significant adverse comments are ones which oppose the rule and raise, alone or in combination, a serious enough issue related to each of the independent grounds for the rule that a substantive response is required. If significant adverse comments are received, notification will be published in the **Federal Register** before the effective date either withdrawing the rule or issuing a new final rule which responds to significant adverse comments.

**ADDRESSES:** Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at [www.regulations.gov](http://www.regulations.gov) under docket number DOE–HQ–2025–0015. Follow the instructions for submitting final comments. The docket for this final

rule, which includes **Federal Register** notices, comments, and other supporting documents and materials, is available for review at [www.regulations.gov](http://www.regulations.gov). All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. However, not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure. The docket web page can be found at [www.regulations.gov/docket/DOE-HQ-2025-0015](http://www.regulations.gov/docket/DOE-HQ-2025-0015). The docket web page contains instructions on how to access all documents, including public comments, in the docket, as well as a summary.

In accordance with 5 U.S.C. 553(b)(4), a summary of this rule may be found at [regulations.gov](http://regulations.gov), under the docket number.

**FOR FURTHER INFORMATION CONTACT:** Mr. David Taggart, U.S. Department of Energy, Office of the General Counsel, GC–1, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 586–5281. Email: [DOEGeneralCounsel@hq.doe.gov](mailto:DOEGeneralCounsel@hq.doe.gov).

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**I. General Discussion**

Through this direct final rule, DOE is rescinding certain provisions from its regulations found at part 1040 of chapter X of title 10 of the Code of Federal Regulations (CFR) (“Nondiscrimination in Federally Assisted Programs or Activities”). Specifically, DOE is rescinding 10 CFR 1040.73, “New Construction.” Upon further evaluation, and for the reasons explained subsequently, DOE has determined this provision to be unnecessary and unduly burdensome.

Under 10 CFR 1040.73, each facility or part of a facility constructed by, on

behalf of, or for the use of a recipient of federal financial assistance is to be designed and constructed in a manner that the facility or part of the facility is readily accessible to, and useable by, handicapped persons, if the construction was commenced after June 13, 1980. 10 CFR 1040.73(a). Relatedly, in the case of an alteration, each facility or part of a facility which is altered by, on behalf of, or for the use of a recipient of Federal financial assistance after June 13, 1980, in a manner that affects or could affect the usability of the facility or part of the facility is, to the maximum extent feasible, to be altered in a manner that the altered portion of the facility is readily accessible to and useable by handicapped persons. 10 CFR 1040.73(b). Finally, under the regulation, design, construction, or alteration of buildings in conformance with section 3–8 of the Uniform Federal Accessibility Standards shall be deemed to comply with the requirements of the regulation with respect to those buildings. 10 CFR 1040.73(c).

Given the general prohibition on discriminatory activities and related penalties, see 10 CFR 1040.71, DOE finds these additional provisions unnecessary and unduly burdensome. It is DOE's policy to give private entities flexibility to comply with the law in the manner they deem most efficient. One-size-fits-all rules are rarely the best option. Accordingly, DOE finds good reason to eliminate this regulatory provision.

## II. Procedural Issues and Regulatory Review

### A. Review Under Executive Orders 12866

Executive Order (E.O.) 12866, "Regulatory Planning and Review," 58 FR 51735 (Oct. 4, 1993), requires agencies, to the extent permitted by law, to (1) propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs (recognizing that some benefits and costs are difficult to quantify); (2) tailor regulations to impose the least burden on society, consistent with obtaining regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations; (3) select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits; (4) to the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt; and (5) identify and assess available alternatives to direct regulation, including providing

economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public.

Section 6(a) of E.O. 12866 also requires agencies to submit "significant regulatory actions" to the Office of Information and Regulatory Affairs (OIRA) for review. OIRA has determined that this direct final rule does not constitute a "significant regulatory action" under section 3(f) of E.O. 12866. Accordingly, this direct final rule was not submitted to OIRA for review under E.O. 12866.

### B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis (IRFA) and a final regulatory flexibility analysis (FRFA) for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by E.O. 13272, "Proper Consideration of Small Entities in Agency Rulemaking," 67 FR 53461 (August 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel's website ([www.energy.gov/gc/office-general-counsel](http://www.energy.gov/gc/office-general-counsel)).

DOE reviewed this rescission under the provisions of the Regulatory Flexibility Act and the policies and procedures published on February 19, 2003. This rule eliminates burdensome regulations. Therefore, DOE initially concludes that the impacts of the rescission would not have a "significant economic impact on a substantial number of small entities," and that the preparation of an IRFA is not warranted. DOE will transmit this certification and supporting statement of factual basis to the Chief Counsel for Advocacy of the Small Business Administration for review under 5 U.S.C. 605(b).

### C. Review Under the Paperwork Reduction Act

This rescission imposes no new information or recordkeeping requirements. Accordingly, Office of Management and Budget (OMB) clearance is not required under the Paperwork Reduction Act. (44 U.S.C. 3501 *et seq.*)

### D. Review Under the National Environmental Policy Act of 1969

DOE has analyzed this action in accordance with the National Environmental Policy Act of 1969, as amended, ("NEPA") and DOE's NEPA implementing regulations (10 CFR part 1021). DOE has determined that this rule qualifies for categorical exclusion under 10 CFR part 1021, subpart D, appendix A5, because it is an interpretive rulemaking that does not change the environmental effect of the rule.

### E. Review Under Executive Order 13132

E.O. 13132, "Federalism," 64 FR 43255 (August 10, 1999), imposes certain requirements on Federal agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. The Executive order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735.

DOE has examined this rescission and has determined that it would not have a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government.

### F. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of E.O. 12988, "Civil Justice Reform," imposes on Federal agencies the general duty to adhere to the following requirements: (1) eliminate drafting errors and ambiguity, (2) write regulations to minimize litigation, (3) provide a clear legal standard for affected conduct rather than a general standard, and (4) promote simplification and burden reduction. 61 FR 4729 (Feb. 7, 1996). Regarding the review required by section 3(a), section 3(b) of E.O. 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) clearly

specifies the preemptive effect, if any, (2) clearly specifies any effect on existing Federal law or regulation, (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction, (4) specifies the retroactive effect, if any, (5) adequately defines key terms, and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General.

Section 3(c) of E.O. 12988 requires Executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, this rescission meets the relevant standards of E.O. 12988.

#### *G. Review Under the Unfunded Mandates Reform Act*

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104–4, sec. 201 (codified at 2 U.S.C. 1531). For a regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of \$100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a “significant intergovernmental mandate,” and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect them. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820. DOE’s policy statement is also available at [www.energy.gov/sites/prod/files/gcprod/documents/umra\\_97.pdf](https://www.energy.gov/sites/prod/files/gcprod/documents/umra_97.pdf).

DOE examined this rescission according to UMRA and its statement of policy and determined that the rescission does not contain a Federal intergovernmental mandate, nor is it expected to require expenditures of \$100 million or more in any one year by

State, local, and Tribal governments, in the aggregate, or by the private sector. As a result, the analytical requirements of UMRA do not apply.

#### *H. Review Under the Treasury and General Government Appropriations Act, 1999*

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any rule that may affect family well-being. This rescission would not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

#### *I. Review Under Executive Order 12630*

Pursuant to E.O. 12630, “Governmental Actions and Interference with Constitutionally Protected Property Rights,” 53 FR 8859 (March 18, 1988), DOE has determined that this rescission would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

#### *J. Review Under the Treasury and General Government Appropriations Act, 2001*

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516, note) provides for Federal agencies to review most disseminations of information to the public under information quality guidelines established by each agency pursuant to general guidelines issued by OMB. OMB’s guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE’s guidelines were published at 67 FR 62446 (Oct. 7, 2002). Pursuant to OMB Memorandum M–19–15, Improving Implementation of the Information Quality Act (April 24, 2019), DOE published updated guidelines which are available at: <https://www.energy.gov/cio/departments-energy-information-quality-guidelines>. DOE has reviewed this rescission under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

#### *K. Review Under Executive Order 13211*

E.O. 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,” 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OIRA at OMB, a Statement of Energy Effects for any significant energy action. A “significant energy action” is defined as any action by an agency that

promulgates or is expected to lead to promulgation of a final rule, and that: (1) is a significant regulatory action under Executive Order 12866, or any successor order and is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (2) is designated by the Administrator of OIRA as a significant energy action. For any significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the rule be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

This rescission is not a significant regulatory action under E.O. 12866. Moreover, it would not have a significant adverse effect on the supply, distribution, or use of energy, nor has it been designated as such by the Administrator at OIRA. Accordingly, DOE has not prepared a Statement of Energy Effects.

#### *L. Review Under Additional Executive Orders and Presidential Memoranda*

DOE has examined this rescission and has determined that it is consistent with the policies and directives outlined in E.O. 14154, “Unleashing American Energy,” E.O. 14192, “Unleashing Prosperity Through Deregulation,” and Presidential Memorandum, “Delivering Emergency Price Relief for American Families and Defeating the Cost-of-Living Crisis.” This rescission is expected to be an Executive Order 14192 deregulatory action.

#### *M. Congressional Notification*

As required by 5 U.S.C. 801, DOE will report to Congress on the promulgation of this rule before its effective date. The report will state that it has been determined that the rule is not a “major rule” as defined by 5 U.S.C. 804(2).

### **III. Approval of the Secretary**

The Secretary of Energy has approved publication of this direct final rule; and request for comment.

#### **List of Subjects in 10 CFR Part 1040**

Aged, Civil rights, Equal employment opportunity, Individuals with disabilities, Sex discrimination.

#### **Signing Authority**

This document of the Department of Energy was signed on May 9, 2025, by Chris Wright, Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the

undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on May 9, 2025.

**Treena V. Garrett**

*Federal Register Liaison Officer, U.S.  
Department of Energy.*

For the reasons set forth in the preamble, DOE amends part 1040 of chapter X of title 10 of the Code of Federal Regulations, as set forth below:

## **PART 1040—NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS OR ACTIVITIES**

■ 1. The authority citation for part 1040 continues to read as follows:

**Authority:** 20 U.S.C. 1681–1686; 29 U.S.C. 794; 42 U.S.C. 2000d to 2000d–7, 3601–3631, 5891, 6101–6107, 7101 *et seq.*

### **§ 1040.73 [Removed and Reserved]**

■ 2. Remove and reserve § 1040.73.

[FR Doc. 2025–08535 Filed 5–12–25; 9:30 am]

BILLING CODE 6450–01–P

## **DEPARTMENT OF ENERGY**

### **10 CFR Part 1042**

[DOE–HQ–2025–0016]

RIN 1903–AA25

### **Nondiscrimination on the Basis of Sex in Sports Programs Arising Out of Federal Financial Assistance**

**AGENCY:** Department of Energy (DOE); Office of Civil Rights and EEO.

**ACTION:** Direct final rule (“DFR”); request for comments.

**SUMMARY:** This DFR amends existing regulations requiring certain funding recipients that sponsor sports teams for members of one sex to allow members of the opposite sex to try out for the team. Accordingly, these requirements will no longer be a factor when recipients operate sports teams.

**DATES:** The final rule is effective July 15, 2025, unless significant adverse comments are received by June 16, 2025. Significant adverse comments oppose the rule and raise, alone or in combination, a serious enough issue related to each of the independent grounds for the rule that a substantive response is required. If significant adverse comments are received, notice will be published in the **Federal**

**Register** before the effective date either withdrawing the rule or issuing a new final rule which responds to significant adverse comments.

**ADDRESSES:** Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at [www.regulations.gov](http://www.regulations.gov) under docket number DOE–HQ–2025–0016. Follow the instructions for submitting comments. The docket for this final rule, which includes **Federal Register** notices, comments, and other supporting documents and materials, is available for review at [www.regulations.gov](http://www.regulations.gov). All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. However, not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure. The docket web page can be found at [www.regulations.gov/docket/DOE-HQ-2025-0016](http://www.regulations.gov/docket/DOE-HQ-2025-0016). The docket web page contains instructions on how to access all documents, including public comments, in the docket, as well as a summary.

In accordance with 5 U.S.C. 553(b)(4), a summary of this rule may be found at [regulations.gov](http://regulations.gov), under the docket number.

**FOR FURTHER INFORMATION CONTACT:** Mr. David Taggart, U.S. Department of Energy, Office of the General Counsel, GC–1, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 586–5281. Email: [DOEGeneralCounsel@hq.doe.gov](mailto:DOEGeneralCounsel@hq.doe.gov).

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  - M. Congressional Notification
- III. Approval of the Office of the Secretary

#### **I. General Discussion**

DOE is amending 10 CFR 1042.450 which establishes athletics rules in view of provisions regarding

nondiscrimination on the basis of sex in education program or activities receiving federal financial assistance. Specifically DOE is rescinding the following requirement: “where a recipient operates or sponsors a team in a particular sport for members of one sex but operates or sponsors no such team for members of the other sex, and athletic opportunities for members of that sex have previously been limited, members of the excluded sex must be allowed to try out for the team offered unless the sport involved is a contact sport. For the purposes of these Title IX regulations, contact sports include boxing, wrestling, rugby, ice hockey, football, basketball, and other sports the purpose or major activity of which involves bodily contact.” 10 CFR 1042.450.

Such athletics rules ignore differences between the sexes which are grounded in fundamental and incontrovertible reality while also imposing a burden on local governments and small businesses who are in the best position to determine the needs of their community and constituents. The modification also aligns the rule with Presidential direction under E.O. 14201 “Keeping Men Out of Women’s Sports” which makes clear it is the policy of the United States to “oppose male competitive participation in women’s sports more broadly, as a matter of safety, fairness, dignity and truth.”

DOE seeks comment on all aspects of the rule, including but not limited to the prior rule’s consistency with statutory authority and the Constitution, the prior rule’s costs and benefits, and the prior rule’s effect on small business, entrepreneurship and private enterprise.

#### **II. Procedural Issues and Regulatory Review**

##### *A. Review Under Executive Orders 12866*

Executive Order (“E.O.”) 12866, “Regulatory Planning and Review,” requires agencies, to the extent permitted by law, to (1) propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs (recognizing that some benefits and costs are difficult to quantify); (2) tailor regulations to impose the least burden on society, consistent with obtaining regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations; (3) select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits; (4) to the extent feasible, specify performance objectives, rather than specifying the behavior or