



USET

SOVEREIGNTY PROTECTION FUND

USET SPF Alert

HHS Issues Delay on SUNSET Rule Effective Date

Dear USET SPF Membership,

For your awareness, we are updating our membership on the Biden Administration's postponement of the effective date of the Securing Updated and Necessary Statutory Evaluations Timely (SUNSET) rule. Today, the Department of Health and Human Services (HHS) published an [Administrative Delay of Effective Date](#) regarding the SUNSET Rule, which would delay the effective date of the rule for one year (with an effective date of March 22, 2022) pending judicial review.

As you may remember, on January 8th HHS [finalized](#) the SUNSET rule with an effective date of March 22, 2021. The SUNSET Rule would require HHS to assess its regulations every ten years to determine whether they are subject to review under the Regulatory Flexibility Act (RFA). HHS would then be required to determine whether the regulation is still needed and is having the appropriate impacts. Regulations not assessed or reviewed by HHS in a timely manner would expire. Under the final rule, IHS regulations would need to be assessed and (if needed) reviewed by 2026—or five calendar years after the year the SUNSET rule becomes effective as IHS regulations are more than ten years old.

USET SPF had previously [alerted](#) our membership about the SUNSET Proposed Rule released under the Trump Administration regarding concerns the rule would set automatic expiration periods on and otherwise critical regulations implementing Medicaid, Medicare, and governing the Indian Health System.

The delay in the rule's effective date follows legal action from a diverse set of interests. In early March 2021, the County of Santa Clara, the California Tribal Families Coalition, the National Association of Pediatric Nurse Practitioners, the American Lung Association, the Center for Science in the Public Interest, and the Natural Resources Defense Council [sued HHS](#) for its issuance of the SUNSET final rule.

USET SPF had previously submitted [comments](#) to HHS in December 2020 where we asked that HHS take immediate action to rescind the Proposed Rule in its entirety. In our comments, we noted the potential impacts the rule could have on the Indian Healthcare System by causing the expiration of regulations that are critically important to the execution of the trust obligation through the provision of health care to Native American people.

USET SPF is encouraged by the actions of the Biden Administration to delay the SUNSET rule, and we will continue to advocate against this and all rules that are harmful to Native American people and the Indian Healthcare System. As always, we will be sure to provide updates to our membership on the SUNSET rule as they become available.

Please contact [Sisy Garcia](#), USET SPF Policy Analyst, if you have any questions.