

in the labeling of food products and that publish on or after January 1, 2019, and on or before December 31, 2020. Those regulations will specifically identify January 1, 2022, as their compliance date. All food products subject to the January 1, 2022, compliance date must comply with the appropriate regulations when initially introduced into interstate commerce on or after January 1, 2022. If any food labeling regulation involves special circumstances that justify a compliance date other than January 1, 2022, we will determine for that regulation an appropriate compliance date, which will be specified when the final regulation is published.

Dated: December 13, 2018.

**Scott Gottlieb,**

*Commissioner of Food and Drugs.*

[FR Doc. 2018–27429 Filed 12–19–18; 8:45 am]

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## **EQUAL EMPLOYMENT OPPORTUNITY COMMISSION**

### **29 CFR Part 1630**

**[EEOC–2018–0004]**

**RIN 3046–AB01**

### **Removal of Final ADA Wellness Rule Vacated by Court**

**AGENCY:** Equal Employment Opportunity Commission.

**ACTION:** Final rule.

**SUMMARY:** This final rule removes from the Code of Federal Regulations a section of the final rule published on May 17, 2016, entitled “Regulations Under the Americans With Disabilities Act.” This action responds to a decision of the U.S. District Court for the District of Columbia that vacated the incentive section of the ADA rule effective January 1, 2019.

**DATES:** The action is effective on January 1, 2019.

**FOR FURTHER INFORMATION CONTACT:** Christopher J. Kuczynski, (202) 663–4665 (voice), [christopher.kuczynski@eeoc.gov](mailto:christopher.kuczynski@eeoc.gov); or Joyce Walker-Jones, (202) 663–7031 (voice); [joyce.walker-jones@eeoc.gov](mailto:joyce.walker-jones@eeoc.gov); or (202) 663–7026 (TTY).

**SUPPLEMENTARY INFORMATION:** On May 17, 2016, the Equal Employment Opportunity Commission (EEOC) published a final rule entitled “Regulations Under the Americans With Disabilities Act” under the authority of Title I of the Americans with Disabilities Act (ADA), 42 U.S.C. 12101–12117. 81 **Federal Register** 31126. The rule “provide[d] guidance on the extent to which employers may

use incentives to encourage employees to participate in wellness programs that ask them to respond to disability-related inquiries and/or undergo medical examinations.”

On October 24, 2016, AARP filed a complaint in the U.S. District Court for the District of Columbia challenging the incentive section of the ADA rule. On August 22, 2017, the District Court concluded that the Commission did not provide sufficient reasoning to justify the incentive limit adopted in the ADA rule and remanded the rule to the EEOC for reconsideration without vacating it. Following a motion by AARP to alter or amend the court’s summary judgment order, the court issued an order vacating the incentive section of the rule, 29 CFR 1630.14(d)(3), effective January 1, 2019. *AARP v. EEOC, D.D.C.*, No. 16–2113 (D.D.C. December 20, 2017). Consistent with that decision, this rule removes the incentive section of the ADA regulations at 29 CFR 1630.14(d)(3).

This rule is not subject to the requirement to provide public comment because it falls under the good cause exception at 5 U.S.C. 553(b)(B). The good cause exception is satisfied when notice and comment is “impracticable, unnecessary, or contrary to the public interest.” *Id.* This rule is an administrative step that implements the court’s order vacating the incentive section of the ADA rule. Additionally, because this rule implements a court order already in effect, the Commission has good cause to waive the 30-day effective date under 5 U.S.C. 553(d)(3).

### **List of Subjects in 29 CFR Part 1630**

Administrative practice and procedure, Equal employment opportunity.

For the reasons set forth in the preamble, under the authority of 42 U.S.C. 12101–12117, the Commission amends chapter XIV of title 29 of the Code of Federal Regulations as follows:

### **PART 1630—REGULATIONS TO IMPLEMENT THE EQUAL EMPLOYMENT PROVISIONS OF THE AMERICANS WITH DISABILITIES ACT**

- 1. The authority citation for part 1630 continues to read as follows:

**Authority:** 42 U.S.C. 12116 and 12205a of the Americans with Disabilities Act, as amended.

#### **§ 1630.14 [Amended]**

- 2. Amend § 1630.14 by removing and reserving paragraph (d)(3).

Dated: December 14, 2018.

**Victoria A. Lipnic,**

*Acting Chair, U.S. Equal Employment Opportunity Commission.*

[FR Doc. 2018–27539 Filed 12–19–18; 8:45 am]

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## **EQUAL EMPLOYMENT OPPORTUNITY COMMISSION**

### **29 CFR Part 1635**

**EEOC–2018–0005]**

**RIN 3046–AB02**

### **Removal of Final GINA Wellness Rule Vacated by Court**

**AGENCY:** Equal Employment Opportunity Commission.

**ACTION:** Final rule.

**SUMMARY:** This final rule removes from the Code of Federal Regulations a section of the final rule published on May 17, 2016, entitled, “Genetic Information Nondiscrimination Act.” This action responds to a decision of the U.S. District Court for the District of Columbia that vacated the incentive section of the GINA rule effective January 1, 2019.

**DATES:** The action is effective on January 1, 2019.

**FOR FURTHER INFORMATION CONTACT:** Christopher J. Kuczynski, (202) 663–4665 (voice), [christopher.kuczynski@eeoc.gov](mailto:christopher.kuczynski@eeoc.gov); or Kerry E. Leibig, (202) 663–4516 (voice), [kerry.leibig@eeoc.gov](mailto:kerry.leibig@eeoc.gov); or (202) 663–7026 (TTY).

**SUPPLEMENTARY INFORMATION:** On May 17, 2016, the Equal Employment Opportunity Commission (EEOC) published a final rule entitled, “Genetic Information Nondiscrimination Act” under the authority of Title II of the Genetic Information Nondiscrimination Act of 2008 (GINA), 42 U.S.C. 2000ff–2000ff–11. 81 **Federal Register** 31143. The rule “addressed the extent to which an employer may offer an inducement to an employee for the employee’s spouse to provide his or her current health status information as part of a health risk assessment (HRA) administered in connection with an employee-sponsored wellness program.” *Id.*

On October 24, 2016, AARP filed a complaint in the U.S. District Court for the District of Columbia challenging the incentive section of the GINA rule. On August 22, 2017, the District Court concluded that the Commission did not provide sufficient reasoning to justify the incentive limit adopted in the GINA rule and remanded the rule to the EEOC for further consideration without vacating it. Following a motion by