Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.11D, Airspace Designations and Reporting Points, dated August 8, 2019, and effective September 15, 2019. FAA Order 7400.11D is publicly available as listed in the ADDRESSES section of this document. FAA Order 7400.11D lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

The FAA is amending Title 14 Code of Federal Regulations (14 CFR) part 71 by establishing Class E airspace extending upward from 700 feet above the surface of the earth at Gove County Airport, Quinter, KS. The Class E airspace will be established to within 5.5 miles of the Gove County Airport. This area would provide airspace for air traffic service routes, and reporting points.

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore: (1) Is not a “significant regulatory action” under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1F, “Environmental Impacts; Policies and Procedures,” paragraph 5–6.5a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:


§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11D, Airspace Designations and Reporting Points, dated August 8, 2019, and effective September 15, 2019, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

ANN WA E5 Quinter, KS

Gove County Airport, KS

Lat. 39°02′19″ N, long. 100°14′02″ W

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the Gove County airport, Quinter, KS.


Shawn M. Kozica,

Group Manager, Operations Support Group, Western Service Center.

[F]R Doc. 2020–14469 Filed 7–6–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

29 CFR Parts 2509 and 2510

RIN 1210–AB96

Conflict of Interest Rule—Retirement Investment Advice: Notice of Court Vacatur

AGENCY: Employee Benefits Security Administration, Department of Labor

ACTION: Final rule; technical amendment.

SUMMARY: This document implements the vacatur of the Department’s 1976 final rule defining who is a “fiduciary” under the Employee Retirement Income Security Act of 1974. This document also reflects the removal of two prohibited transaction exemptions (PTEs 2016–01 and 2016–02) published with the 2016 final rule and the return of the amended prohibited transaction exemptions (PTEs 75–1, 77–4, 80–83, 83–1, 84–24, and 86–128) to their pre-amendment form. In addition, this document reinstates Interpretive Bulletin 96–1.


SUPPLEMENTARY INFORMATION:

On April 8, 2016, the Department of Labor published a final regulation titled “Conflict of Interest Rule—Retirement Investment Advice” (Fiduciary Rule) defining who is a “fiduciary” of an employee benefit plan under section 3(21)(A)(ii) of the Employee Retirement Income Security Act of 1974 (ERISA) as a result of giving investment advice to a plan or its participants or beneficiaries for a fee or other compensation. The Fiduciary Rule also applied to the definition of a “fiduciary” of a plan (including an individual retirement account (IRA)) under section 4975(e)(3)(B) of the Internal Revenue Code of 1986 (Code). On the same date, the Department published two new administrative class exemptions from the prohibited transaction provisions of ERISA and the Code: The Best Interest Contract Exemption (PTE 2016–01) and the Class Exemption for Principal Transactions in Certain Assets Between Investment Advice Fiduciaries and Employee Benefit Plans and IRAs (PTE 2016–02), as well as amendments to the following previously granted exemptions: PTEs 75–1; 77–4; 80–83; 83–1; 84–24; and 86–128 (collectively, the PTEs).

On June 21, 2018, the United States Court of Appeals for the Fifth Circuit issued a judgment and mandate vacating the Fiduciary Rule, the new PTEs, and the amendments to the previously granted PTEs in toto. Chamber of Commerce, 885 F.3d 360 (5th Cir. 2018); Mandate at 2, Chamber, 885 F.3d 360 (No. 17–10238) (ECF No. 00514522178). The vacatur had the effect of reinstating the prior regulatory text, i.e., the 1975 regulation (1975 Regulation), reinstating Interpretive Bulletin 96–1, which had been removed and largely incorporated into the text of the

Fiduciary Rule, revoking PTEs 2016–01 and 2016–02, and returning the previously granted PTEs to their pre-2016 rulemaking form. This document takes the administrative steps necessary to conform the regulatory text in the CFR and the text of the previously granted PTEs to the Fifth Circuit’s vacatur mandate. This technical amendment is a ministerial action to reflect the court’s decision which affects no legal rights or obligations and imposes no costs.

This final rule reflects the Fifth Circuit’s vacatur of the Fiduciary Rule under section 3(21)(A)(ii) of ERISA and section 4975(e)(3)(B) of the Code. Consistent with Federal Register requirements, this final rule removes language from the CFR that the Fiduciary Rule added and reinstates the 1975 Regulation and Interpretive Bulletin 96–1. This amendment also corrects a typographical error in the original text of the 1975 Regulation, at 29 CFR 2510.3–21(e)(1)(ii).

This document also reflects the Fifth Circuit’s vacatur of PTEs 2016–01 and 2016–02, the two new class exemptions granted in connection with the Fiduciary Rule, as well as the vacatur of the amendments to the previously granted exemptions, PTEs 75–1, 77–4, 80–83, 83–1, 84–24 and 86–128. The Department also withdraws the Proposed Best Interest Contract Exemption for Insurance Intermediaries, a related class exemption proposal that was not finalized. EBSA’s website will reflect all of these changes.

Procedural and Other Matters

Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(3)(B), provides that when an agency for good cause finds that notice and public procedures are impracticable, unnecessary or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. The Department has determined that there is good cause for dispensing with public comments, inasmuch as this rule merely conforms the text in the CFR to reflect the mandate of the Fifth Circuit’s decision, which vacated the Department’s 2016 rulemaking in toto. Additionally, the Department finds that to provide notice and an opportunity to comment would be unnecessary because the Department is simply conducting the ministerial task of implementing the mandate issued by the Fifth Circuit.

In addition, the Department finds that it has good cause to make the revisions immediately effective under section 553(d) of the Administrative Procedure Act, 5 U.S.C. 553(d). Section 553(d) provides that final rules shall not become effective until 30 days after publication in the Federal Register, “except . . . as otherwise provided by the agency for good cause,” among other exceptions. The purpose of this provision is to “give affected parties a reasonable time to adjust their behavior before the final rule takes effect.”

This final rule has been determined to be not significant for purposes of Executive Orders 12866 and 13563. Additionally, no analysis is required under the Regulatory Flexibility Act or Sections 202 and 205 of the Unfunded Mandates Reform Act of 1999, because, for the reasons discussed above, the Department is not required to engage in notice and comment under the Administrative Procedure Act. This final rule does not have significant Federalism implications under Executive Order 13132. This final rule is not a significant regulatory action under Executive Order 12866, and is therefore not subject to Executive Order 13771, entitled Reducing Regulations and Controlling Regulatory Costs. The final rule is not subject to the requirements of the Paperwork Reduction Act of 1995 (PRA 95) (44 U.S.C. 3501 et seq.), because it does not contain a collection of information as defined in 44 U.S.C. 3502(3).

The Congressional Review Act, 5 U.S.C. 801 et seq., generally provides that before certain actions may take

d effect, the agency promulgating the action must submit a report, which includes a copy of the action, to each House of the Congress and to the Comptroller General of the United States. This final action is administrative and only implements the Fifth Circuit vacatur. Accordingly, the Department has determined that good cause exists, and that this technical amendment is not subject to the timing requirements of the Congressional Review Act.

Statutory Authority


List of Subjects in 29 CFR Parts 2509 and 2510

Employee benefit plans, Pensions.

For the reasons stated in the preamble, the Department is amending parts 2509 and 2510 of subchapters A and B of chapter XXV of title 29 of the Code of Federal Regulations as follows:

Subchapter A—General

PART 2509—INTERPRETIVE BULLETINS RELATING TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

1. The authority citation for part 2509 continues to read as follows:


2. Add § 2509.96–1 to read as follows:

§ 2509.96–1 Interpretive Bulletin Relating to Participant Investment Education.

(a) Scope. This interpretive bulletin sets forth the Department of Labor’s interpretation of section 3(21)(A)(ii) of the Employee Retirement Income Security Act of 1974, as amended (ERISA), and 29 CFR 2510.3–21(c) as applied to the provision of investment-related educational information to participants and beneficiaries in participant-directed individual account pension plans (i.e., pension plans that permit participants and beneficiaries to direct the investment of assets in their individual accounts, including plans that meet the requirements of the Department’s regulations at 29 CFR 2550.404c–1).
(b) General. Fiduciaries of an employee benefit plan are charged with carrying out their duties prudently and solely in the interest of participants and beneficiaries of the plan, and are subject to personal liability to, among other things, make good any losses to the plan resulting from a breach of their fiduciary duties. ERISA sections 403, 404 and 409, 29 U.S.C. 1103, 1104, and 1109. Section 404(c) of ERISA provides a limited exception to these rules for a pension plan that permits a participant or beneficiary to exercise control over the assets in his or her individual account. The Department of Labor’s regulation, at 29 CFR 2550.404c–1, describes the kinds of plans to which section 404(c) applies, the circumstances under which a participant or beneficiary will be considered to have exercised independent control over the assets in his or her account, and the consequences of a participant’s or beneficiary’s exercise of such control. With both an increase in the number of participant-directed individual account plans and the number of investment options available to participants and beneficiaries under such plans, there has been an increasing recognition of the importance of providing participants and beneficiaries whose investment decisions will directly affect their income at retirement, with information designed to assist them in making investment and retirement-related decisions appropriate to their particular situations. Concerns have been raised, however, that the provision of such information may in some situations be viewed as rendering “investment advice for a fee or other compensation,” within the meaning of section 3(21)(A)(ii), thereby giving rise to fiduciary status and potential liability under ERISA for investment decisions of plan participants and beneficiaries.

In response to these concerns, the Department of Labor is clarifying herein the applicability of ERISA section 3(21)(A)(ii) and 29 CFR 2510.3–21(c) to the provision of investment-related educational information to participants and beneficiaries in participant-directed individual account plans. In providing this clarification, the Department does not address the “fee or other compensation, direct or indirect,” which is a necessary element of fiduciary status under ERISA section 3(21)(A)(ii).

(c) Investment Advice. Under ERISA section 3(21)(A)(ii), a person is considered a fiduciary with respect to an employee benefit plan to the extent that person “renders investment advice for a fee or other compensation, direct or indirect, with respect to any moneys or other property of such plan, or has any authority to do so . . . .” The Department issued a regulation, at 29 CFR 2510.3–21(c), describing the circumstances under which a person will be considered to be rendering “investment advice” within the meaning of section 3(21)(A)(ii). Because section 3(21)(A)(ii) applies to advice with respect to “any moneys or other property” of a plan and 29 CFR 2510.3–21(c) is intended to clarify the application of that section, it is the view of the Department that the criteria set forth in the regulation apply to determine whether a person renders “investment advice” to a pension plan participant or beneficiary who is permitted to direct the investment of assets in his or her individual account. Applying 29 CFR 2510.3–21(c) in the context of providing investment-related information to participants and beneficiaries of participant-directed individual account pension plans, a person will be considered to be rendering “investment advice,” within the meaning of section 3(21)(A)(ii), to a participant or beneficiary only if:

(i) The person renders advice to the participant or beneficiary as to the value of securities or other property, or makes recommendations as to the advisability of investing in, purchasing, or selling securities or other property (2510.3–21(c)(1)(i)(I)); and,

(ii) the person, either directly or indirectly,

(A) has discretionary authority or control with respect to purchasing or selling securities or other property for the participant or beneficiary (2510.3–21(c)(1)(i)(ii)(A)), or

(B) renders the advice on a regular basis to the participant or beneficiary, pursuant to a mutual agreement, arrangement or understanding (written or otherwise) with the participant or beneficiary that the advice will serve as a primary basis for the participant’s or beneficiary’s investment decisions with respect to plan assets and that such person will render individualized advice based on the particular needs of the participant or beneficiary (2510.3–21(c)(1)(i)(ii)(B)).

Whether the provision of particular investment-related information or materials to a participant or beneficiary constitutes the rendering of “investment advice,” within the meaning of 29 CFR 2510.3–21(c)(1), generally can be determined only by reference to the facts and circumstances of the particular case with respect to the individual plan participant or beneficiary. To facilitate such determinations, however, the Department of Labor has identified, in paragraph (d), below, examples of investment-related information and materials which if provided to plan participants and beneficiaries would not, in the view of the Department, result in the rendering of “investment advice” under ERISA section 3(21)(A)(ii) and 29 CFR 2510.3–21(c).

(d) Investment Education. For purposes of ERISA section 3(21)(A)(ii) and 29 CFR 2510.3–21(c), the Department of Labor has determined that the furnishing of the following categories of information and materials to a participant or beneficiary in a participant-directed individual account pension plan will not constitute the rendering of “investment advice,” irrespective of who provides the information (e.g., plan sponsor, fiduciary or service provider), the frequency with which the information is shared, the form in which the information and materials are provided (e.g., on an individual or group basis, in writing or orally, or via video or computer software), or whether an identified category of information and materials is furnished alone or in combination with other identified categories of information and materials.

1 Issues relating to the circumstances under which information provided to participants and beneficiaries may affect a participant’s or beneficiary’s ability to exercise independent control over the assets in his or her account for purposes of relief from fiduciary liability under ERISA section 404(c) are beyond the scope of this interpretive bulletin. Accordingly, no inferences should be drawn regarding such issues. See 29 CFR 2550.404c–1(c)(2). It is the view of the Department, however, that the provision of investment-related information and material to participants and beneficiaries in accordance with paragraph (d) of this interpretive bulletin will not, in and of itself, affect the availability of relief under section 404(c).

2 The Department has expressed the view that, for purposes of section 3(21)(A)(ii), such fees or other compensation need not come from the plan and should be deemed included all fees or other compensation incidental to the transaction in which the investment advice has been or will be rendered. See A.O. 83–60A (Nov. 21, 1983); Reich v. McManus, 883 F. Supp. 1144 (N.D. Ill. 1995).

3 This IB does not address the application of 29 CFR 2510.3–21(c) to communications with fiduciaries of participant-directed individual account pension plan.
(1) **Plan Information.** Information and materials that inform a participant or beneficiary about the benefits of plan participation, the benefits of increasing plan contributions, the impact of preretirement withdrawals on retirement income, the terms of the plan, or the operation of the plan; or (ii) information such as that described in 29 CFR 2550.404c–1(b)(2)(i) on investment alternatives under the plan (e.g., descriptions of investment objectives and philosophies, risk and return characteristics, historical return information, or related prospectuses). 5

The information and materials described above relate to the plan and plan participation, without reference to the appropriateness of any individual investment option for a particular participant or beneficiary under the plan. The information, therefore, does not contain either “advice” or “recommendations” within the meaning of 29 CFR 2510.3–21(c)(1)(i).

Accordingly, the furnishing of such information would not constitute the rendering of “investment advice” for purposes of section 3(21)(A)(ii) of ERISA.

(2) **General Financial and Investment Information.** Information and materials that inform a participant or beneficiary about: (i) General financial and investment concepts, such as risk and return, diversification, dollar cost averaging, compounded return, and tax deferred investment; (ii) historic differences in rates of return between different asset classes (e.g., equities, bonds, or cash) based on standard market indices; (iii) effects of inflation; (iv) estimating future retirement income needs; (v) determining investment time horizons; and (vi) assessing risk tolerance.

The information and materials described above are general financial and investment information that have no direct relationship to investment alternatives available to participants and beneficiaries under a plan or to individual participants or beneficiaries. The furnishing of such information, therefore, would not constitute rendering “advice” or making “recommendations” to a participant or beneficiary within the meaning of 29 CFR 2510.3–21(c)(1)(i). Accordingly, the furnishing of such information would not constitute the rendering of “investment advice” for purposes of section 3(21)(A)(iii) of ERISA.

(3) **Asset Allocation Models.** Information and materials (e.g., pie charts, graphs, or case studies) that provide a participant or beneficiary with models, available to all plan participants and beneficiaries, of asset allocation portfolios of hypothetical individuals with different time horizons and risk profiles, where: (i) Such models are based on generally accepted investment theories that take into account the historic returns of different asset classes (e.g., equities, bonds, or cash) over defined periods of time; (ii) there is an objective correlation between the asset allocations generated by the materials and the information and data supplied by the participant or beneficiary; (iii) all material facts and assumptions (e.g., retirement ages, life expectancies, income levels, financial resources, replacement income ratios, inflation rates, and rates of return) which may affect a participant’s or beneficiary’s assessment of the different asset allocations accompany the materials or are specified by the participant or beneficiary; (iv) to the extent that an asset allocation generated by the materials identifies any specific investment alternative available under the plan, the asset allocation is accompanied by a statement indicating that other investment alternatives having similar risk and return characteristics may be available under the plan and identifying where information on those investment alternatives may be obtained; and (v) the materials either take into account or are accompanied by a statement indicating that, in applying particular asset allocations to their individual situations, participants or beneficiaries should consider their other assets, income, and investments (e.g., equity in a home, IRA investments, savings accounts, and interests in other qualified and non-qualified plans) in addition to their interests in the plan.

The information provided through the use of the above-described materials enables participants and beneficiaries independently to design and assess multiple asset allocation models, but otherwise these materials do not differ from asset allocation models based on hypothetical assumptions. Such information would not constitute a “recommendation” within the meaning of 29 CFR 2510.3–21(c)(1)(i) and, accordingly, would not constitute “investment advice” for purposes of section 3(21)(A)(ii) of ERISA.

The Department notes that the information and materials described in subparagraphs (1)–(4) above merely represent examples of the type of information and materials which may be furnished to participants and beneficiaries without such information and materials constituting “investment advice.” In this regard, the Department recognizes that there may be many other examples of information, materials, and educational services which, if furnished to participants and beneficiaries, would not constitute “investment advice.” Accordingly, no inferences should be drawn from subparagraphs (1)–(4),
Subchapter B—Definitions and Coverage under the Employee Retirement Income Security Act of 1974

PART 2510—DEFINITIONS OF TERMS USED IN SUBCHAPTERS C, D, E, F, AND G OF THIS CHAPTER

1. The authority citation for part 2510 continues to read as follows:

2. Revise § 2510.3–21 to read as follows:

§ 2510.3–21
(a)–(b) [Reserved]
(c) Investment advice. (1) A person shall be deemed to be rendering “investment advice” to an employee benefit plan, within the meaning of section 3(21)(A)(ii) of the Employee Retirement Income Security Act of 1974 (the Act) and this paragraph, only if:
(i) Such person renders advice to the plan as to the value of securities or other property, or makes recommendation as to the advisability of investing in, purchasing, or selling securities or other property; and
(ii) Such person either directly or indirectly (e.g., through or together with any affiliate):
(A) Has discretionary authority or control, whether or not pursuant to agreement, arrangement or understanding, with respect to purchasing or selling securities or other property for the plan; or
(B) Renders any advice described in paragraph (c)(1)(i) of this section on a regular basis to the plan pursuant to a mutual agreement, arrangement or understanding, written or otherwise, between such person and the plan or a fiduciary with respect to the plan, that such services will serve as a primary basis for investment decisions with respect to plan assets, and that such person will render individualized investment advice to the plan based on the particular needs of the plan regarding such matters as, among other things, investment policies or strategy, overall portfolio composition, or diversification of plan investments.
(2) A person who is a fiduciary with respect to a plan by reason of rendering investment advice (as defined in paragraph (c)(1)(i) of this section) for a fee or other compensation, direct or indirect, with respect to any moneys or other property of such plan, or having any authority or responsibility to do so, shall not be deemed to be a fiduciary regarding any assets of the plan with respect to which such person does not have any discretionary authority, discretionary control or discretionary responsibility, does not exercise any authority or control, does not render investment advice (as defined in paragraph (c)(1) of this section) for a fee or other compensation, and does not have any authority or responsibility to render such investment advice, provided that nothing in this paragraph shall be deemed to:
(i) Exempt such person from the provisions of section 405(a) of the Act concerning liability for fiduciary breaches by other fiduciaries with respect to any assets of the plan; or
(ii) Exclude such person from the definition of the term “party in interest” (as set forth in section 3(14)(B) of the Act) with respect to any assets of the plan.
(d) Execution of securities transactions. (1) A person who is a broker or dealer registered under the Securities Exchange Act of 1934, a reporting dealer who makes primary markets in securities of the United States Government or of an agency of the United States Government and reports daily to the Federal Reserve Bank of New York its positions with respect to such securities and borrowings thereon, or a bank supervised by the United States or a State, shall not be deemed to be a fiduciary, within the meaning of section 3(21)(A) of the Act, with respect to an employee benefit plan solely because such person executes transactions for the purchase or sale of securities on behalf of such plan in the ordinary course of its business as a broker, dealer, or bank, pursuant to instructions of a fiduciary with respect to such plan, if:
(i) Neither the fiduciary nor any affiliate of such fiduciary is such broker, dealer, or bank; and
(ii) The instructions specify (A) the security to be purchased or sold, (B) a price range within which such security is to be purchased or sold, or, if such security is issued by an open-end investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a–1, et seq.), a price which is determined in accordance with Rule 22c–1 under the Investment Company Act of 1940 (17 CFR 270.22c–1), (C) a time span during which such security may be purchased or sold (not to exceed five business days), and (D) the minimum or maximum quantity of such security which may be purchased or sold within such price range, or, in the
case of a security issued by an open-end investment company registered under the Investment Company Act of 1940, the minimum or maximum quantity of such security which may be purchased or sold, or the value of such security in dollar amount which may be purchased or sold, at the price referred to in paragraph (d)(1)(ii)(B) of this section.

(2) A person who is a broker-dealer, reporting dealer, or bank which is a fiduciary with respect to an employee benefit plan solely by reason of the possession or exercise of discretionary authority or discretionary control in the management of the plan or the management or disposition of plan assets in connection with the execution of a transaction or transactions for the purchase or sale of securities on behalf of such plan which fails to comply with the provisions of paragraph (d)(1) of this section, shall not be deemed to be a fiduciary regarding any assets of the plan with respect to which such broker-dealer, reporting dealer or bank does not have any discretionary authority, discretionary control or discretionary responsibility, does not exercise any authority or control, does not render investment advice (as defined in paragraph (c)(1) of this section) for a fee or other compensation, and does not have any authority or responsibility to render such investment advice, provided that nothing in this paragraph shall be deemed to:

(i) Exempt such broker-dealer, reporting dealer, or bank from the provisions of section 405(a) of the Act concerning liability for fiduciary breaches by other fiduciaries with respect to any assets of the plan; or

(ii) Exclude such broker-dealer, reporting dealer, or bank from the definition, of the term “party in interest” (as set forth in section 3(14)(B) of the Act) with respect to any assets of the plan.

(e) Affiliate and control. (1) For purposes of paragraphs (c) and (d) of this section, an “affiliate” of a person shall include:

(i) Any person directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with such person;

(ii) Any officer, director, partner, employee or relative (as defined in section 3(15) of the Act) of such person; and

(iii) Any corporation or partnership of which such person is an officer, director or partner.

(2) For purposes of this paragraph, the term “control” means the power to exercise a controlling influence over the management or policies of a person other than an individual.

Jeanne Klinefelter Wilson,
Acting Assistant Secretary, Employee Benefits Security Administration, U.S. Department of Labor.

[FR Doc. 2020–14260 Filed 7–2–20; 8:45 am]
BILLING CODE 4510–29–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 63, 260, 261, and 278
RIN 2050–AG93

Modernizing Ignitable Liquids Determinations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is finalizing updates to the regulations for the identification of ignitable hazardous waste under the Resource Conservation and Recovery Act (RCRA) and to modernize the RCRA test methods that currently require the use of mercury thermometers. These revisions provide greater clarity to hazardous waste identification, provide flexibility in testing requirements, improve environmental compliance, and, thereby, enhance protection of human health and the environment.

DATES: This final rule is effective on September 8, 2020. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register as of September 8, 2020.

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OLEM–2018–0830, is available at https://www.regulations.gov or at the Office of Land & Emergency Management Docket (OLEM Docket), Environmental Protection Agency. Docket Center (EPA/DC), West William Jefferson Clinton Blvd., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OLEM Docket is (202) 566–0270. Please review the visitor instructions and additional information about the docket available at https://www.epa.gov/dockets.

FOR FURTHER INFORMATION CONTACT: Daniel Fagnant, Materials Recovery and Waste Management Division, Office of Resource Conservation and Recovery (5304P), Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington, DC 20460; telephone number 703–308–0319; email address: fagnant.daniel@epa.gov; or Melissa Kaps, Materials Recovery and Waste Management Division, Office of Resource Conservation and Recovery (5304P), Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington, DC 20460; telephone number 703–308–6787; email address: kaps.melissa@epa.gov.

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