

the mechanisms to enforce the final judgment are clear and manageable”).

As the U.S. Court of Appeals for the District of Columbia Circuit has held, under the APPA a court considers, among other things, the relationship between the remedy secured and the specific allegations in the government’s Complaint, whether the proposed Final Judgment is sufficiently clear, whether its enforcement mechanisms are sufficient, and whether it may positively harm third parties. *See Microsoft*, 56 F.3d at 1458–62. With respect to the adequacy of the relief secured by the proposed Final Judgment, a court may not “make de novo determination of facts and issues.” *United States v. W. Elec. Co.*, 993 F.2d 1572, 1577 (D.C. Cir. 1993) (quotation marks omitted); *see also Microsoft*, 56 F.3d at 1460–62; *United States v. Alcoa, Inc.*, 152 F. Supp. 2d 37, 40 (D.D.C. 2001); *United States v. Enova Corp.*, 107 F. Supp. 2d 10, 16 (D.D.C. 2000); *InBev*, 2009 U.S. Dist. LEXIS 84787, at *3. Instead, “[t]he balancing of competing social and political interests affected by a proposed antitrust decree must be left, in the first instance, to the discretion of the Attorney General.” *W. Elec. Co.*, 993 F.2d at 1577 (quotation marks omitted). “The court should also bear in mind the flexibility of the public interest inquiry: the court’s function is not to determine whether the resulting array of rights and liabilities is the one that will best serve society, but only to confirm that the resulting settlement is within the reaches of the public interest.” *Microsoft*, 56 F.3d at 1460 (quotation marks omitted); *see also United States v. Deutsche Telekom AG*, No. 19–2232 (TJK), 2020 WL 1873555, at *7 (D.D.C. Apr. 14, 2020). More demanding requirements would “have enormous practical consequences for the government’s ability to negotiate future settlements,” contrary to congressional intent. *Microsoft*, 56 F.3d at 1456. “The Tunney Act was not intended to create a disincentive to the use of the consent decree.” *Id.*

The United States’ predictions about the efficacy of the remedy are to be afforded deference by the Court. *See, e.g., Microsoft*, 56 F.3d at 1461 (recognizing courts should give “due respect to the Justice Department’s . . . view of the nature of its case”); *United States v. Iron Mountain, Inc.*, 217 F. Supp. 3d 146, 152–53 (D.D.C. 2016) (“In evaluating objections to settlement agreements under the Tunney Act, a court must be mindful that [t]he government need not prove that the settlements will perfectly remedy the alleged antitrust harms[;] it need only provide a factual basis for concluding

that the settlements are reasonably adequate remedies for the alleged harms.” (internal citations omitted)); *United States v. Republic Servs., Inc.*, 723 F. Supp. 2d 157, 160 (D.D.C. 2010) (noting “the deferential review to which the government’s proposed remedy is accorded”); *United States v. Archer-Daniels-Midland Co.*, 272 F. Supp. 2d 1, 6 (D.D.C. 2003) (“A district court must accord due respect to the government’s prediction as to the effect of proposed remedies, its perception of the market structure, and its view of the nature of the case.”). The ultimate question is whether “the remedies [obtained by the Final Judgment are] so inconsonant with the allegations charged as to fall outside of the ‘reaches of the public interest.’” *Microsoft*, 56 F.3d at 1461 (quoting *W. Elec. Co.*, 900 F.2d at 309).

Moreover, the Court’s role under the APPA is limited to reviewing the remedy in relationship to the violations that the United States has alleged in its Complaint, and does not authorize the Court to “construct [its] own hypothetical case and then evaluate the decree against that case.” *Microsoft*, 56 F.3d at 1459; *see also U.S. Airways*, 38 F. Supp. 3d at 75 (noting that the court must simply determine whether there is a factual foundation for the government’s decisions such that its conclusions regarding the proposed settlements are reasonable); *InBev*, 2009 U.S. Dist. LEXIS 84787, at *20 (“[T]he ‘public interest’ is not to be measured by comparing the violations alleged in the complaint against those the court believes could have, or even should have, been alleged”). Because the “court’s authority to review the decree depends entirely on the government’s exercising its prosecutorial discretion by bringing a case in the first place,” it follows that “the court is only authorized to review the decree itself,” and not to “effectively redraft the complaint” to inquire into other matters that the United States did not pursue. *Microsoft*, 56 F.3d at 1459–60.

In its 2004 amendments to the APPA, Congress made clear its intent to preserve the practical benefits of using judgments proposed by the United States in antitrust enforcement, Public Law 108–237 § 221, and added the unambiguous instruction that “[n]othing in this section shall be construed to require the court to conduct an evidentiary hearing or to require the court to permit anyone to intervene.” 15 U.S.C. 16(e)(2); *see also U.S. Airways*, 38 F. Supp. 3d at 76 (indicating that a court is not required to hold an evidentiary hearing or to permit intervenors as part of its review under the Tunney Act). This language

explicitly wrote into the statute what Congress intended when it first enacted the Tunney Act in 1974. As Senator Tunney explained: “[t]he court is nowhere compelled to go to trial or to engage in extended proceedings which might have the effect of vitiating the benefits of prompt and less costly settlement through the consent decree process.” 119 Cong. Rec. 24,598 (1973) (statement of Sen. Tunney). “A court can make its public interest determination based on the competitive impact statement and response to public comments alone.” *U.S. Airways*, 38 F. Supp. 3d at 76 (citing *Enova Corp.*, 107 F. Supp. 2d at 17).

VIII. Determinative Documents

There are no determinative materials or documents within the meaning of the APPA that were considered by the United States in formulating the proposed Final Judgment.

Dated: April 17, 2023.

Respectfully submitted,

FOR PLAINTIFF

UNITED STATES OF AMERICA:

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DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree for Natural Resource Damages Under the Oil Pollution Act

On April 19, 2022, the Department of Justice lodged a proposed consent decree with the United States District Court for the Eastern District of Louisiana in the lawsuit entitled *United States v. LLOG Exploration Offshore, L.L.C.*, Civil Action No. 2:23–cv–01301–WBV–KWR.

The United States filed this lawsuit with respect to a crude oil spill that occurred at the Mississippi Canyon Block 209 subsea oil production system (“MC 209”) in the Gulf of Mexico beginning on or about October 11, 2017. The oil spilled from a fractured subsea wellhead jumper that connected the MC 209 Well to a subsea manifold. The incident lasted 32 hours and resulted in an estimated discharge of 16,000 barrels of oil (672,000 gallons) into the waters of the Gulf of Mexico.

The Complaint seeks the recovery of damages for injury to, destruction of, loss of, or loss of use of natural

resources, plus the unreimbursed costs of assessing such damages (collectively, “NRD”), under Section 1002 of the Oil Pollution Act (“OPA”), 33 U.S.C. 2702–2762. Under the proposed consent decree, Defendant will pay the United States \$3.1 million and, in return, receive a covenant not to sue under OPA for NRD relating to the MC 209 spill, subject to specified reservations and reopeners.

The publication of this notice opens a period for public comment on the proposed consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer *United States v. LLOG Exploration Offshore, L.L.C.*, D.J. Ref. No. 90–5–1–1–12640. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

<i>To submit comments:</i>	<i>Send them to:</i>
By email	<i>pubcomment-ees.enrd@usdoj.gov.</i>
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the proposed consent decree may be examined and downloaded at this Justice Department website: <https://www.justice.gov/enrd/consent-decrees>. We will provide a paper copy of the proposed consent decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for \$5.75 (25 cents per page reproduction cost) payable to the United States Treasury.

Thomas Carroll,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2023–08656 Filed 4–24–23; 8:45 am]

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DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Inflation Reduction Act Wage Rates and Wage Determinations

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Wage and Hour Division (WHD)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that the agency receives on or before May 25, 2023.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function.

Comments are invited on: (1) whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) if the information will be processed and used in a timely manner; (3) the accuracy of the agency’s estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (4) ways to enhance the quality, utility and clarity of the information collection; and (5) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: Mara Blumenthal by telephone at 202–693–8538, or by email at DOL_PRA_PUBLIC@dol.gov.

SUPPLEMENTARY INFORMATION: On August 16, 2022, President Biden signed H.R. 5376 (Pub. L. 117–169), a budget reconciliation measure commonly referred to as the “Inflation Reduction Act of 2022” (IRA). The IRA allows taxpayers to claim enhanced tax credit and deduction amounts in situations in which Davis-Bacon Act (DBA) rates are not required but are voluntarily paid as a condition of claiming the enhanced amount. The purpose of this ICR is to collect the data from respondents outside the scope of DBA/DBRA who will need an applicable wage determination or wage rates for classifications that are not in an applicable wage determination to satisfy prevailing wage requirements and thereby take the enhanced tax credit and deduction amounts under the IRA. For additional substantive information about this ICR, see the related notice

published in the **Federal Register** on December 22, 2022 (87 FR 78712).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. See 5 CFR 1320.5(a) and 1320.6.

DOL seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOL notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Agency: DOL–WHD.

Title of Collection: Inflation Reduction Act Wage Rates and Wage Determinations.

OMB Control Number: 1235–0034.

Affected Public: Private Sector—Businesses or other for-profits.

Total Estimated Number of Respondents: 1,727.

Total Estimated Number of Responses: 1,727.

Total Estimated Annual Time Burden: 432 hours.

Total Estimated Annual Other Costs Burden: \$0.

(Authority: 44 U.S.C. 3507(a)(1)(D).)

Dated: April 19, 2023.

Mara Blumenthal,
Senior PRA Analyst.

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DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2022–0011]

Maritime Advisory Committee on Occupational Safety and Health (MACOSH); Notice of Meeting

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice of MACOSH meeting.

SUMMARY: The Maritime Advisory Committee on Occupational Safety and Health (MACOSH) will meet on May 23 and 24, 2023, in a hybrid format. Committee members will meet in person, while the public is invited to