concerned individuals, with some 39 organizations or individuals presenting their perspectives in the hearings (Document ID 2153; 2156; 2168; 2171). The presiding Administrative Law Judge permitted stakeholders to submit post-hearing comments and briefs until May 23, 2022. OSHA received nearly 150 additional comments from stakeholders during the post-hearing comment period. In total, over the three different comment periods, OSHA received 873 timely public comments on this rulemaking.

OSHA submitted a draft final COVID–19 rule to the White House Office of Management and Budget (OMB) on December 7, 2022. On April 10, 2023, President Biden signed into law House Joint Resolution 7, which terminated the national emergency related to the COVID–19 pandemic. While the COVID–19 draft remained under review at OMB, OSHA pushed ahead with development of an Infectious Diseases standard for healthcare workers.

Basis for Terminating the Rulemaking

OSHA always intended for an Infectious Diseases standard for healthcare workers to supplant any COVID–19 healthcare standard, and that a COVID–19 standard would be an interim measure pending the completion of the Infectious Diseases healthcare standard. OSHA concludes that the most effective and efficient use of agency resources to protect healthcare workers from occupational exposure to COVID–19, as well as a host of other infectious diseases, is to focus its resources on the completion of an Infectious Diseases rulemaking for healthcare rather than a disease-specific standard.

In addition, even if OSHA were to finalize a separate COVID–19 standard at this time, the agency would need to conduct an additional review and possibly supplement the record again before it could issue a final rule to ensure the rule reflects the most current science. For example, guidance from the Centers for Disease Control and Prevention and other experts has changed since OSHA submitted its draft rule to OMB. Moreover, focusing on a separate COVID–19 standard would likely consume agency staff time and other agency resources in a way that would inhibit the promulgation of a more broadly protective Infectious Diseases healthcare standard. For these independently sufficient reasons, OSHA is terminating this rulemaking. In sum, the agency will have a greater impact at this time by adopting a standard that would provide protections to healthcare workers from occupational exposure to many different infectious diseases, including COVID–19 and future variants.

List of Subjects in 29 CFR Part 1910

COVID–19, Disease, Health facilities, Health, Health care, Incorporation by reference, Occupational health and safety, Public health, Quarantine, Reporting and recordkeeping requirements, Respirators, SARS–CoV–2, Telework, Vaccines, Viruses.

Authority and Signature

Douglas L. Parker, Assistant Secretary of Labor for Occupational Safety and Health, authorized the preparation of this document under the authority granted by sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); 5 U.S.C. 553, Secretary of Labor's Order No. 8–2020 (85 FR 58393), and 29 CFR part 1911.

Signed at Washington, DC.

Douglas L. Parker,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2025–00632 Filed 1–13–25; 11:15 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

29 CFR Part 2550

[Application No. D–11799]

RIN 1210–ZA23

Prohibited Transaction Exemption (PTE) 2002–51 To Permit Certain Transactions Identified in the Voluntary Fiduciary Correction Program

AGENCY: Employee Benefits Security Administration, Labor.

ACTION: Exemption amendment.

SUMMARY: This document amends Prohibited Transaction Exemption 2002–51, an exemption for certain transactions identified in the Department of Labor's Voluntary Fiduciary Correction Program (VFC Program or Program). The VFC Program is designed to encourage correction of fiduciary breaches and compliance with the law by permitting persons to avoid potential Department of Labor civil enforcement actions and civil penalties if they voluntarily correct eligible transactions in a manner that meets the requirements of the Program. PTE 2002–51 is a related class exemption that allows excise tax relief from excise taxes imposed by the Internal Revenue Code of 1986, as amended, for certain eligible transactions corrected pursuant to the VFC Program. This amendment to PTE 2002–51 is being finalized in connection with the Department's amendment and restatement of the VFC Program, published elsewhere in this issue of the **Federal Register** (2025 VFC Program). These amendments simplify and expand the VFC Program and exemptive relief to make the Program and exemption easier to use and more useful for employers and others who wish to avail themselves of the relief provided. The amendment to PTE 2002–51 affects plans, participants and beneficiaries of such plans, and certain other persons engaging in such transactions.

DATES: This amendment will be in effect on March 17, 2025.

FOR FURTHER INFORMATION CONTACT: Emily Harris, Office of Exemption Determinations, Employee Benefits Security Administration, U.S. Department of Labor, telephone number (202) 693–8540. Brian J. Buyniski or Yolanda Wartenberg, Office of Regulations and Interpretations, Employee Benefits Security Administration (EBSA), (202) 693–8500, for questions regarding the VFC Program amendments. James Butikofer, Office of Research and Analysis, EBSA, (202) 693–8410, for questions regarding the regulatory impact analysis. (These are not toll-free numbers.)

For general questions regarding the VFC Program: contact Dawn Miatech-Plaska, Office of Enforcement, EBSA, (202) 693–8691. For questions regarding specific applications and self-corrections under the VFC Program: contact the appropriate EBSA Regional Office listed in appendix C to the 2025 VFC Program. (These are not toll-free numbers.)

Customer Service Information: Individuals interested in obtaining information from the Department concerning the Employee Retirement Income Security Act of 1974 (ERISA) and employee benefit plans may call the Employee Benefits Security Administration's Toll-Free Hotline, at 1–866–444–EBSA (3272) or visit the Department's website (*www.dol.gov/ebsa*).

SUPPLEMENTARY INFORMATION:

Background

History of the VFC Program and Class Exemption

The VFC Program gives plans and fiduciaries a ready means to correct violations of ERISA, without the transaction costs and burden associated with enforcement actions for violations of the fiduciary standards in title I of ERISA. As an enforcement policy, the VFC Program simultaneously promotes compliance with the law, correction of violations, and the efficient use of scarce enforcement resources. The Department also has the authority under ERISA section 408(a) to issue exemptions from the prohibited transaction rules in ERISA sections 406 and 407 and Internal Revenue Code (Code) section 4975.[1] Accordingly, in tandem with an amendment to the VFC Program published elsewhere in this issue of the **Federal Register**, the Department is publishing this associated amendment to Prohibited Transaction Exemption (PTE) 2002–51, which implements important components of the VFC Program.

The Department of Labor's Employee Benefits Security Administration (EBSA) originally adopted the VFC Program in 2002, and later revised it in 2005 and 2006.[2] EBSA designed the VFC Program to encourage employers and plan fiduciaries to voluntarily comply with ERISA and allow those potentially liable for certain specified fiduciary breaches under ERISA to voluntarily apply for relief from enforcement actions and certain penalties, provided they meet the VFC Program's criteria and follow the procedures outlined in the VFC Program.

The VFC Program describes how to apply for relief and lists the specific transactions covered and the acceptable methods for correcting fiduciary breaches under the Program. The most frequently corrected transaction under the Program is the correction of delinquent participant contributions. The Program provides a model application form, a checklist, and an online calculator for determining amounts to be restored to plans. The VFC Program has been, and will continue to be, administered in EBSA's Regional Offices.

The Department granted PTE 2002–51 in connection with the VFC Program. Some of the breaches that may be corrected under the VFC Program are also prohibited transactions subject to excise tax under Code section 4975. Reorganization Plan No. 4 of 1978 transferred the authority of the Secretary of Treasury to issue exemptions from the prohibited transaction provisions of Code section 4975 to the Secretary of Labor.[3] The exemption allows excise tax relief for certain specified breaches under the VFC Program. PTE 2002–51 is subject to several general conditions, including that the breach be appropriately corrected and the party applying must satisfy all the conditions of the VFC Program. The exemption also includes certain transaction-specific conditions.

2022 Proposal

On November 21, 2022, the Department published in the **Federal Register** proposed revisions to the VFC Program with a request for public comments.[4] The 2022 VFC Program proposed revisions would establish a self-correction feature for certain delinquent participant contributions and loan repayments to pension plans (the SCC). On the same date, the Department also published in the **Federal Register** a proposed amendment to PTE 2002–51 that would make certain conforming amendments to the class exemption.[5] The Department received seven comments on the proposed amendment.

On February 14, 2023, the Department reopened the comment period on both the 2022 Program VFC Program proposed revisions and the proposed amendment to PTE 2002–51 in light of section 305(b)(2) of the SECURE 2.0 Act of 2022 (SECURE 2.0 Act.[6] This provision requires the Department to treat eligible inadvertent failures related to participant loans that are self-corrected under the Employee Plans Compliance Resolution System [7] (IRS's EPCRS) as meeting the requirements of the VFC Program ''if, with respect to the violation of the fiduciary standards of the ERISA, there is a similar loan error eligible for correction under EPCRS and the loan error is corrected in such manner.'' The Department requested comments on what revisions, if any, it should make to the VFC Program and exemption to reflect the treatment of corrections of loans to participants as described in SECURE 2.0 Act. Only one commenter addressed PTE 2002–51 in response and stated that no further amendments are required to the exemption.

2025 VFC Program

The Department is finalizing the amendment to the VFC Program elsewhere in this edition of the **Federal Register**. With these amendments, EBSA intends to facilitate more efficient and less costly corrections of fiduciary breaches under the VFC Program, encourage greater participation in the VFC Program, and respond to requests from stakeholders for adjustments based on their experiences using the VFC Program. In this regard, the amendments are designed to simplify the VFC Program and make it easier to use by employers and others who wish to avail themselves of the relief provided. Notably, the new self-correction procedures will apply to the transaction most frequently corrected under the VFC Program—the delinquent transmittal of participant contributions and loan repayments to pension plans—as well as to certain participant loan failures that are self-corrected under the IRS's EPCRS. The Department anticipates that many users of the amended Program will find it improved and less resource intensive to comply with, without sacrificing protections of their affected plans.

The 2025 VFC Program retains the fundamentals of the 2006 VFC Program. The Program describes how to apply for relief, lists the specific transactions covered, and sets forth acceptable methods for correcting fiduciary breaches under the VFC Program. It also provides examples of potential breaches and related permissible corrective actions. The VFC Program defines the term ''Breach'' to mean any transaction that is or may be a violation of the fiduciary responsibilities contained in part 4 of title I of ERISA. The VFC Program also provides a model application form, a checklist, and an Online Calculator for determining correction amounts. The VFC Program will continue to be administered in EBSA Regional Offices. Eligible applicants that satisfy the terms and conditions of the VFC Program application process receive a ''no action'' letter from EBSA and are not subject to civil monetary penalties for the corrected transactions.

The most significant changes in the 2025 VFC Program involve the addition of two new self-correction features. The first is in section 7.1(b) for certain failures to timely transmit participant contributions (and participant loan repayments) to pension plans,[8] and the second is in section 7.3(c) for certain

[1] Under Reorganization Plan No. 4 of 1978, 5 U.S.C. App., the authority of the Secretary of Treasury to issue exemptions pursuant to Code section 4975 was transferred, with certain exceptions not relevant here, to the Secretary of Labor.

[2] 67 FR 15062 (March 28, 2002); 70 FR. 17516 (April 6, 2005); 71 FR. 20262 (April 19, 2006).

[3] 5 U.S.C. App.

[4] 87 FR 71164 (Nov. 21, 2022).

[5] 87 FR 70753 (Nov. 21, 2022).

[6] Enacted on December 29, 2022, as Division T of the Consolidated Appropriations Act, 2023, Public Law 117 328, 136 Stat. 4459 (2022).

[7] As described in Rev. Proc. 2021–30, or any successor guidance).

[8] The term pension plans include both defined contribution plans and defined benefit plans. *See* ERISA section 3(34) and 3(35).

participant loan failures that are self-corrected under the IRS's EPCRS. The other 2025 VFC Program amendments: (1) clarify existing transactions eligible for correction under the VFC Program; (2) expand the scope of certain transactions currently eligible for correction; and (3) simplify certain administrative or procedural requirements for participation in the VFC Program and correction of transactions under the VFC Program.

Description of the Amendments to PTE 2002–51

The Department is amending PTE 2002–51 to provide excise tax relief for transactions that are corrected pursuant to the SCC in the 2025 VFC Program and to make certain administrative or procedural changes for participation in, and correction of, transactions under the VFC Program.[9]

Self-Correction Feature for Delinquent Participant Contributions and Loan Repayments to Pension Plans

The 2025 VFC Program establishes the SCC for certain delinquent contributions to pension plans. The SCC allows ''self-correctors'' to make a plan whole and receive relief under the VFC Program without submitting an application to EBSA and receiving a no-action letter. Instead, self-correctors provide a notice (the SCC notice) to EBSA through an electronic tool on EBSA's website and receive an email acknowledgement from EBSA of a properly completed and submitted SCC notice.

The Department is amending PTE 2002–51 to allow excise tax relief to self-correctors. The Department is adding transactions that are corrected under the SCC to section I.A. These transactions must comply with the applicable exemption conditions, including the requirement that delinquent contributions may not have been transmitted to the plan more than 180 calendar days from the date they were either received by the employer or otherwise would have been payable to the participant in cash. The Department is also amending section III.B of the exemption, which provides that the exemption will apply only if the applicant receives an EBSA no-action letter pursuant to the VFC Program. Since self-correctors will receive an email acknowledgement instead of a no-action letter from EBSA, this condition is amended to add a specific reference to the email acknowledgement of a properly completed and submitted SCC notice.

Frequency of Use

Historically, PTE 2002–51 was generally not available to VFC Program applicants that had taken advantage of the relief provided by the VFC Program and the exemption for a similar type of transaction within the previous three years. The Department proposed to eliminate the three-year limitation to encourage greater use of the VFC Program.

The Department requested comment in the proposal regarding whether the proposed removal of the three-year limitation would encourage greater use of the VFC Program without loss of meaningful protections for participants and beneficiaries. Several commenters supported the proposal and stated that the existing limitation was unnecessary to protect participants. However, one commenter disagreed with the proposal and cautioned that removing the three-year limitation may encourage more employers to delay depositing employee contributions and instead use that money for business expenses. This commenter suggested that if the Department chose to eliminate the three-year limitation period, it should do so on a trial basis so that the Department could monitor how often employers are using the VFC Program. After considering this comment, the Department has decided to finalize the amendment as proposed; however, it will monitor how frequently plan fiduciaries rely on the VFC Program (including the SCC) and may consider further amendments in the future.

Sale and Leaseback of Real Property to an Employer

Section I.D. of PTE 2002–51 applies to the sale of real property to a plan by the sponsoring employer and the leaseback of such property to the same employer if it is corrected as required under the VFC Program. The Department is amending this section as proposed. The amendment expands the covered transactions in section I.D. to include affiliates of plan sponsors, which reflects a change made in the 2025 VFC Program. Accordingly, the amended exemption is available for a sale of real property by an affiliate of the employer sponsoring the plan, to the plan, and a leaseback of such property to the affiliate of the sponsoring employer.

As amended, the term ''affiliate'' of a person is defined as follows—

(1) any person directly, or indirectly through one or more intermediaries, controlling, controlled by, or under common control with the person; (2) any officer, director, partner, employee, or member of the family (as defined in Code section 4975(e)(6)) of the person; or (3) any corporation or partnership of which such person is an officer, director, partner or employee.

The term ''control'' is defined as the power to exercise a controlling influence over the management of a person other than an individual.[10]

Deletion of Section II.E.

The Department is deleting section II.E. of the exemption as proposed. The condition related to all the covered transactions under section I and required that ''the transaction was not part of an agreement, arrangement or understanding designed to benefit a disqualified person.'' The Department believes that this condition is unnecessary in light of the other, more specific conditions of the exemption, including the requirement that the transaction must have been corrected in accordance with the applicable requirements of the VFC Program for the exemption to apply.

Notice to Interested Persons

Section IV governs notice to interested persons. VFC Program applicants generally must inform interested persons of the prohibited transaction(s) that occurred and the steps taken to correct those violations. The notice must give participants and beneficiaries the opportunity to comment on the transactions and corrections to the applicable EBSA Regional Office.

The Department proposed two key changes to the notice requirement for VFC Program applicants. First, the Department proposed that the notice could not be provided through posting alone. The Department explained that although section IV.B. had historically allowed notice through ''posting, regular mail, or electronic mail, or any combination thereof,'' the Department no longer believed that posting is reasonably calculated to ensure that interested persons actually receive the notice. Therefore, the Department is finalizing this provision as proposed.

The Department also included a model notice to interested persons as an appendix to the proposal. The Department drafted this model notice after reviewing several notices to interested persons that were submitted to the Regional Offices but did not meet the applicable requirements of section IV. The Department is publishing the model notice as an appendix to the final amendment to ensure that participants and beneficiaries receive meaningful

[9] As noted above, under Reorganization Plan No. 4 of 1978, 5 U.S.C. App., the authority of the Secretary of Treasury to issue exemptions pursuant to Code section 4975 was transferred to the Secretary of Labor.

[10] Both terms are defined in a new section V.

notice of transactions for which relief is sought by their plans. The only change to the model notice from the proposal is that the final model notice states that you may ''contact'' the appropriate EBSA Regional Office instead of ''mail.'' The Department intends for the model notice to facilitate compliance with the exemption, but it is not requiring VFC Program applicants to use the model notice.

Regardless of whether a VFC Program applicant uses the model notice, the notice must be written in a manner reasonably calculated to be understood by the average Plan participant or beneficiary. In this regard, if a plan fiduciary knows or has reason to know that the average Plan participant or beneficiary covered by its plan would not understand a notice written in English, the fiduciary must take appropriate action to ensure that these interested parties have a reasonable opportunity to become informed of their rights described in the notice.[11] As a compliance aid, the Department is making the model notice available on its website in twelve non-English languages.

Notice Exception for Self-Correctors

In light of the streamlined procedure for self-correction and the SCC's limitation to corrections when the amount of lost earnings is $1,000 or less, the proposed exemption provided that self-correctors would not have to provide notice to interested persons. Instead, they would be required to pay the amount of the excise tax that would otherwise be imposed by Code section 4975 to the plan. Self-correctors would be required to retain a completed Form 5330 or other written documentation that shows the calculation of the amount of otherwise applicable excise taxes and proof they paid that amount to the plan. However, there would no requirement to provide this documentation to EBSA. The Department is finalizing the special notice rule for self-correctors as proposed.

Some commenters expressed concern that this contribution requirement would discourage use of the SCC and suggested that the Department should allow self-correctors to choose whether (a) to provide notice to interested persons (but *not* to EBSA) or (b) make the plan contribution. After considering these comments, the Department has not made this change. Self-correctors have a streamlined procedure for self-correction and the amount of otherwise applicable excise taxes that will be owed to their plans will be small due to the $1,000 limitation on lost earnings. The Department has determined that requiring these amounts to be paid to the plan is the most beneficial to and protective of participants in plans that self-correct under the SCC.

Other Ministerial Amendments

The Department is finalizing certain ministerial changes to PTE 2002–51 to improve readability. For example, the Department is replacing references ''to sections of the Code'' to instead refer to ''Code section.''

Executive Order 12866 (Regulatory Planning and Review), Executive Order 14094 (Modernizing Regulatory Review), and 13563 (Improving Regulation and Regulatory Review)

Under Executive Order 12866 (as amended by Executive Order 14094), the Office of Management and Budget (OMB)'s Office of Information and Regulatory Affairs determines whether a regulatory action is significant and, therefore, subject to the requirements of the Executive order and review by OMB. 58 FR 51735. As amended by Executive Order 14094, section 3(f) of Executive Order 12866 defines a ''significant regulatory action'' as a regulatory action that is likely to result in a rule that may: (1) have an annual effect on the economy of $200 million or more; or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, territorial, or Tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees or loan programs or the rights and obligations of recipients thereof; or (4) raise legal or policy issues for which centralized review would meaningfully further the President's priorities or the principles set forth in the Executive order. OMB has determined that this amendment is a significant regulatory action under Executive Order 12866.[12]

Executive Order 13563 directs agencies to propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs; the regulation is tailored to impose the least burden on society, consistent with achieving the regulatory objectives; and in choosing among alternative regulatory approaches, the agency has selected those approaches that maximize net benefits. Executive Order 13563 recognizes that some benefits are difficult to quantify and provides that, where appropriate and permitted by law, agencies may consider and discuss qualitative values that are difficult or impossible to quantify, including equity, human dignity, fairness, and distributive impacts. See the 2025 VFC Program amendment published elsewhere in this issue of the **Federal Register** for the regulatory impact analysis.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), the Department solicited comments concerning the information collection request (ICR) included in the 2022 VFC Program proposed revisions. At the same time, the Department also submitted the ICR to OMB, in accordance with 44 U.S.C. 3507(d).

The Department received comments that addressed the burden estimates used in the analysis of the 2022 VFC Program proposed revisions. The Department reviewed these public comments in developing the paperwork burden analysis.

The changes made by these final rules affect the existing OMB control number, 1210–0118. A copy of the ICR for OMB Control Number 1210–0118 may be obtained at *RegInfo.gov* (*reginfo.gov/public/do/PRAMain*) or by contacting the PRA addressee:

By mail	PRA Officer, Office of Research and Analysis, Employee Benefits Security Administration, U.S. Department of Labor, 200 Constitution Avenue NW, Room N–5718, Washington, DC 20210.
By email	*ebsa.opr@dol.gov.*

See the 2025 VFC Program amendment published elsewhere in this issue of the **Federal Register** for the paperwork burden of the amended VFC Program and the amended PTE 2002–51.

[11] See *e.g.,* 29 CFR 2520.102–2(c)(2) regarding summary plan descriptions.

[12] *See* 2022 VFC Program proposed revisions, section D, ''Regulatory Impact Analysis.''

Regulatory Flexibility Analysis

The Regulatory Flexibility Act (RFA)[13] imposes certain requirements with respect to Federal rules that are subject to the notice and comment requirements of section 553(b) of the Administrative Procedure Act, or any other law, and are likely to have a significant economic impact on a substantial number of small entities.[14] Pursuant to section 605 of the RFA, the Department certifies that these proposed amendments to PTE 2002–51 will not have a significant economic impact on a substantial number of small entities.[15] See the 2025 VFC Program amendment published elsewhere in this issue of the **Federal Register** for the factual basis for the certification.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under Code section 4975(c)(2) does not relieve a fiduciary or other disqualified person with respect to a plan from certain other provisions of ERISA and the Code, including any prohibited transaction provisions to which the exemption does not apply, the requirement that all assets of an employee benefit plan be held in trust by one or more trustees, and the general fiduciary responsibility provisions of ERISA which require, among other things, that a fiduciary discharge their duties respecting the plan solely in the interests of the participants and beneficiaries of the plan and in a prudent fashion; nor does it affect the requirement of Code section 401(a) that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) The amendment to PTE 2002–51 does not extend to transactions prohibited under Code section 4975(c)(1)(F).

(3) The Department finds that the amendment is administratively feasible, in the interests of plans and their participants and beneficiaries, and protective of the rights of participants and beneficiaries of such plans.

(4) The exemption, as amended, is supplemental to, and not in derogation of other provisions of ERISA and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(5) The exemption, as amended, is applicable to a transaction only if the conditions specified in the class exemption are satisfied.

The Department has republished the entire text of the amended PTE 2002–51 for the convenience of readers.

Amendment to PTE 2002–51

Under Code section 4975(c)(2) and in accordance with the procedures set forth in 29 CFR 2570, subpart B (76 FR 66637, October 27, 2011), the Department amends and restates PTE 2002–51 as set forth below.

Section I. Eligible Transactions

The sanctions resulting from the application of Code section 4975(a) and (b), by reason of Code section 4975(c)(1)(A) through (E), shall not apply to the following eligible transactions described in section 7 of the Voluntary Fiduciary Correction (VFC) Program, as amended, provided that the applicable conditions set forth in sections II, III, and IV are met:

A. Failure to forward participant contributions and/or loan repayments to a pension plan for investment within the time frames determined with reference to the principles of the Department's regulation at 29 CFR 2510.3–102 so that the employer retains such contributions or loan repayments for a longer period of time. (*See* VFC Program, sections 7.1(a) and (b).)

B. Loan at a fair market interest rate to a disqualified person with respect to a plan. (*See* VFC Program, section 7.2(a).)

C. Purchase or sale of an asset (including real property) between a plan and a disqualified person at fair market value. (*See* VFC Program, sections 7.4(a) and (b).)

D. Sale of real property to a plan by the employer or an affiliate of such an employer and the leaseback of the property to the employer or the affiliate, at fair market value and fair market rental value, respectively. (*See* VFC Program, section 7.4(c).)

E. Purchase of an asset (including real property) by a plan, where the asset has later been determined to be illiquid as described under the VFC Program in a transaction which was a prohibited transaction pursuant to Code section 4975(c)(1), or in which the asset was acquired from an unrelated third party, and/or the subsequent sale of such asset in a transaction prohibited pursuant to Code section 4975(c)(1). (*See* VFC Program, section 7.4(f).)

F. Use of plan assets to pay expenses, including commissions or fees, to a service provider (*e.g.,* attorney, accountant, recordkeeper, actuary, financial advisor, or insurance agent) for services provided in connection with the establishment, design or termination of the plan (settlor expenses), which relate to the activities of the plan sponsor in its capacity as settlor, provided that the payment of the settlor expense was not expressly prohibited by a plan provision relating to the payment of expenses by the plan. (*See* VFC Program, section 7.6(b).)

Section II. Conditions

A. With respect to a transaction involving participant contributions or loan repayments to pension plans described in section I.A., the contributions or repayments were transmitted to the pension plan not more than 180 calendar days from the date the amounts were received by the employer (in the case of amounts that a participant or beneficiary pays to an employer) or the date the amounts otherwise would have been payable to the participant in cash (in the case of amounts withheld by an employer from a participant's wages).

B. With respect to the transactions described in sections I.B., I.C., I.D., or I.E., the plan assets involved in the transaction, or series of related transactions, did not, in the aggregate, exceed 10 percent of the fair market value of all the assets of the plan at the time of the transaction.

C. The fair market value of any plan asset involved in a transaction described in sections I.C., I.D., or I.E., was determined in accordance with section 5 of the VFC Program.

D. The terms of a transaction described in sections I.B., I.C., I.D., I.E., or I.F., were at least as favorable to the plan as the terms generally available in arm's-length transactions between unrelated parties.

E. With respect to a transaction involving a sale of an illiquid asset under the VFC Program described in section I.E., the plan paid no brokerage fees, or commissions in connection with the sale of the asset.

F. With respect to any transaction described in section I.F., the amount of plan assets involved in the transaction or series of related transactions did not, in the aggregate, exceed the lesser of $10,000 or five (5) percent of the fair market value of all the assets of the plan at the time of the transaction.

Section III. Compliance With the VFC Program

A. The applicant or self-corrector, as applicable, has met all applicable requirements of the VFC Program.

[13] 5 U.S.C. 601 *et seq.* (1980).

[14] 5 U.S.C. 551 *et seq.* (1946).

[15] 5 U.S.C. 605 (1980).

B. EBSA has issued a no-action letter to the applicant pursuant to the VFC Program with respect to a transaction described in section I, other than for transactions corrected pursuant to the SCC of the VFC Program. For transactions corrected pursuant to the SCC of the VFC Program, the terms of this section will be satisfied if EBSA has acknowledged receipt of the SCC notice in accordance with section 6.2 of the VFC Program.

Section IV. Notice to Interested Persons and Special Rules for Self-Correctors

A. Written notice of the transaction(s) for which the applicant is seeking relief pursuant to the VFC Program, and this exemption, and the method of correcting the transaction, was provided to interested persons within 60 calendar days following the date of the submission of an application under the VFC Program. A copy of the notice was provided to the appropriate Regional Office of the United States Department of Labor, Employee Benefits Security Administration, within the same 60-day period, and the applicant indicated the date upon which notice was distributed to interested persons. Plan assets were not used to pay for the notice. The notice included an objective description of the transaction and the steps taken to correct it, written in a manner reasonably calculated to be understood by the average Plan participant or beneficiary. The notice provided for a period of 30 calendar days, beginning on the date the notice was distributed, for interested persons to provide comments to the appropriate Regional Office, and it included the address and telephone number of such Regional Office. The Model Notice to Interested Persons contained in Appendix A may be used to satisfy the written notice requirement contained in this section IV.

B. The notice to interested persons described in section IV.A. was provided in a manner that was reasonably calculated, taking into consideration the circumstances of the plan, to result in the receipt of such notice by interested persons, including but not limited to regular mail, or electronic mail, or any combination thereof. The notice informed interested persons of the applicant's participation in the VFC Program and intention of availing itself of relief under the exemption.

C. Notwithstanding the foregoing and solely with respect to applicants seeking relief with respect to the VFC Program other than through the SCC, section IV.A. and IV.B. shall not apply to a transaction described in section I.A., provided that: (1) the applicant under the VFC Program has met all of the other applicable Program requirements; (2) the amount of the excise tax that otherwise would be imposed by Code section 4975 with respect to any transaction(s) described in section I.A would be less than or equal to $100; (3) the amount of the excise tax that otherwise would be imposed by Code section 4975 was paid to the plan and allocated to the individual accounts of participants and beneficiaries in the same manner as provided under the plan with respect to plan earnings; and (4) the applicant under the VFC Program provides a copy of a completed IRS Form 5330 or written documentation containing the information required by IRS Form 5330 and proof of payment with the submission of the application to the appropriate EBSA Regional Office. For the sole purpose of determining whether the excise tax due under Code section 4975 on the ''amount involved'' with respect to the prohibited transaction involving the failure to timely transmit participant contributions and loan repayments is less than or equal to $100, an applicant may calculate the excise tax due based upon the Lost Earnings amount computed using the online calculator provided under the Program.

D. Notwithstanding the foregoing and solely with respect to self-correctors seeking relief with respect to transactions corrected pursuant to the SCC of the VFC Program, section IV.A. and B. shall not apply, and additionally the self-corrector must: (1) pay to the plan the amount of the excise tax that otherwise would be imposed by Code section 4975 and allocate such amount to the individual accounts of participants and beneficiaries in the same manner as provided under the plan with respect to plan earnings, and (2) retain a copy of a completed IRS Form 5330 or written documentation regarding the determination of the otherwise applicable excise tax and proof of payment of the amounts paid to the plan pursuant to the VFC Program and this exemption and (3) provide to the plan administrator a copy of such documentation. Self-correctors must calculate the excise tax otherwise due based upon the Lost Earnings amount computed using the online calculator provided under the Program.

Section V. Definitions

A. For purposes of this exemption the term ''affiliate'' of a person means (1) any person directly, or indirectly through one or more intermediaries, controlling, controlled by, or under common control with the person; (2) any officer, director, partner, employee, member of the family (as defined in Code section 4975(e)(6)) of the person; or (3) any corporation or partnership of which such person is an officer, director, partner or employee.

B. For purposes of this section V, the term ''control'' means the power to exercise a controlling influence over the management or policies of a person other than an individual.

Signed at Washington, DC, this 3rd day of January 2025.

Lisa M. Gomez,

Assistant Secretary, Employee Benefits Security Administration, U.S. Department of Labor.

Appendix A—Model Notice to Interested Persons

Dear [Participant or Beneficiary],

The purpose of this letter is to notify you that the [Insert Name of Applicant] is participating in the U.S. Department of Labor's Voluntary Fiduciary Correction (VFC) Program with respect to the [Insert Name of Plan]. The VFC Program is a voluntary enforcement program that encourages the correction of possible breaches of Title I of the Employee Retirement Income Security Act (ERISA).

ERISA is the federal law that covers most employee benefit plans in the private sector. The U.S. Department of Labor's Employee Benefits Security Administration (EBSA) enforces many parts of ERISA. If the terms and conditions of the VFC Program are met by [Insert Name of Applicant], EBSA will not initiate a civil investigation under Title I of ERISA with respect to the transaction and voluntary correction described below.

The VFC Program is accompanied by a ''class exemption'' from certain excise taxes imposed under the Internal Revenue Code on parties participating in ''prohibited transactions'' as defined in ERISA and the Code. The purpose of the prohibited transaction rules is to prevent dealings with persons or entities that may be in a position to exercise improper influence over employee benefit plan assets including [Name of the Plan]. If the terms of the class exemption are met, [Insert Name of Applicant] will qualify for relief from the excise taxes that would otherwise apply.

One of the requirements for excise tax relief is for [Insert Name of Applicant] to provide you with this notice so you have an opportunity to provide comments to EBSA about the prohibited transaction and the steps taken to correct the prohibited transaction, both of which are described below. To the extent that you are interested in providing your written comments to EBSA, you may contact them [Insert the Name of the Appropriate EBSA Regional Office from the VFC Program Notice, Appendix C]. The written comments should be made to the attention of the ''VFC Program Coordinator.'' The address and telephone number for this office are [Insert from VFC Program Notice, Appendix C]. You have 30 calendar days, beginning on the date this notice was distributed, to provide written comments. Individuals submitting written comments on this matter are advised not to disclose sensitive personal data such as social security numbers.

[Insert An Objective Description of the Transaction and the Steps Taken to Correct the Transaction]

Please feel free to contact me if you have any questions at [Insert Telephone Number of a Person Employed by the Applicant Who Is Knowledgeable About this Matter].

Sincerely,

[Insert Name and Title of Person Employed by the Applicant]

[FR Doc. 2025–00328 Filed 1–14–25; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 926

[SATS No. MT–042–FOR; Docket No. OSM–2023–0007; S1D1S SS08011000 SX064A000 231S180110; S2D2S SS08011000 SX064A000 23XS501520]

Montana Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule; approving, in part.

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSMRE), are approving, in part, and denying, in part, an amendment to the Montana regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Montana submitted this proposed amendment to OSMRE on its own initiative in response to a State law passed by the Montana Legislature (House Bill (HB) 576). The proposed amendment generally concerns proposed changes to the definition of material damage and changes to permit requirements related to hydrologic information.

DATES: The effective date is February 14, 2025.

FOR FURTHER INFORMATION CONTACT: Jeffrey Fleischman, Field Office Director, Office of Surface Mining Reclamation and Enforcement, 100 East B Street, Casper, Wyoming 82602, Telephone: (307) 261–6550, Email: *jfleischman@osmre.gov.*

SUPPLEMENTARY INFORMATION:

I. Background on the Montana Program

Section 503(a) of SMCRA permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its program includes, among other things, State laws and regulations that govern surface coal mining and reclamation operations in accordance with SMCRA and consistent with the Federal implementing regulations. *See* 30 U.S.C. 1253(a)(1) and (7); 30 CFR 730.5 and 732.15(a). On the basis of these criteria, the Secretary of the Interior conditionally approved the Montana program on April 1, 1980. You can find background information on the Montana program, including the Secretary's findings, the disposition of comments, and conditions of approval of the Montana program in the April 1, 1980, **Federal Register** (45 FR 21560). You can also find later actions concerning the Montana program and program amendments at 30 CFR 926.15.

II. Submission of the Amendment

By letter dated June 1, 2023 (Administrative Record No. MT–042–01), Montana sent us an amendment to its program under SMCRA (30 U.S.C. 1201 *et seq.*). We found Montana's proposed amendment to be administratively complete on June 5, 2023. Montana submitted the proposed amendment to us, on its own volition, after the Montana legislature passed HB 576 during the 2023 legislative session. HB 576 amends the Montana Strip and Underground Mine Reclamation Act (MSUMRA) as well as sections 82–4–203 and 82–4–222 of the Montana Code Annotated (MCA). Among other things, HB 576 also directed the Montana Department of Environmental Quality (MDEQ) to amend the Administrative Rules of Montana (ARM) to ''remove the two subsections defining 'material damage' and the subsection defining 'material damage to the quantity or quality of water'.''

Specifically, Montana proposes several changes to MCA sec. 82–4–203(32), which defines and describes ''material damage'' for both underground and surface coal mining operations (referred to herein as ''coal mining and reclamation operations''). As currently approved by OSMRE, this section dictates how ''material damage'' applies to the protection of the hydrologic balance. Montana now proposes to create three subsections under section 82–4–203(32) to define how ''material damage'' is defined with respect to: (a) protection of the hydrologic balance; (b) an alluvial valley floor; and (c) subsidence caused by an underground coal mining operation.

Proposed section 82–4–203(32)(a) would create two requirements for an action or inaction to be considered ''material damage'' to the hydrologic balance. The first requirement is that the coal mining operation would cause significant, lasting, or permanent adverse changes to water quality or quantity that affect the beneficial uses of, or rights to, the water outside the permit area. This requirement incorporates the current language of section 82–4–203(32) but modifies it to replace the phrase ''degradation or reduction'' with ''significant long term or permanent adverse change.'' The second requirement for an action or inaction to be considered ''material damage'' to the hydrologic balance is that a coal mining or reclamation operation would cause a lasting or permanent exceedance of a water quality standard (WQS) outside a permit area. There is an exception to this second requirement for water bodies for which the WQSs are stricter than the baseline conditions as determined by MDEQ's assessment of the cumulative hydrologic impact findings conducted pursuant to section 82–4–222. For those water bodies, this second requirement is met if the coal mining and reclamation operation causes an adverse effect to land use, beneficial uses of water, or water rights.

Proposed section 82–4–203(32)(b) would apply when determining if an alluvial valley floor is ''materially damaged.'' Montana proposes to modify the definition of ''material damage'' by adding language that accounts for the degradation or a reduction of water quality or quantity supplied to an alluvial valley floor by a coal mining and reclamation operation, but only if those actions or inactions significantly decrease the alluvial valley floor's ability to support agricultural activities.

Proposed section 82–4–203(32)(c) would apply when determining if subsidence caused by underground coal mining operation is ''material damage.'' Subsidence caused by underground coal mines would constitute ''material damage'' when there are (1) significant impairments to surface lands, features, and structures; (2) physical changes that have significant adverse effects on a lands current and reasonably foreseeable uses, production, or income; or (3) when there is any significant change to a structure's pre-subsidence condition, appearance, or utility.