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DEPARTMENT OF ENERGY

10 CFR Parts 602, 710, 712, 725, 835, 850, 851, 1016, 1017, 1045 and 1046

[EHSS–RM–22–WSHP]

RIN 1992–AA62

Organizational Changes in Certain Department of Energy Health, Safety, and Security Regulations

AGENCY: Office of Environment, Health, Safety and Security, U.S. Department of Energy.

ACTION: Final rule; technical amendments.

SUMMARY: The U.S. Department of Energy (DOE) has updated its organizational structure and changed certain titles and reporting duties within the Office of Environment, Health, Safety and Security. This final rule updates certain DOE health, safety and security regulations to reflect the new titles and organizational names. Additionally, the final rule makes further minor updates to these regulations to improve clarity and delete obsolete references.

DATES: This rule is effective June 26, 2023.

FOR FURTHER INFORMATION CONTACT:

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I. Introduction

The mission of DOE's Office of Environment, Health, Safety and Security (EHSS) is to provide organizational leadership and strategic approaches for protecting DOE's workers, the public, the environment and national security assets. This objective is accomplished through developing organizational policies and standards and providing guidance on their implementation; sharing operating experience, lessons learned, and best practices; and providing assistance and supporting services to line management with the goal of mission success as DOE's environment, health, safety and security advocate.

On February 10, 2022, DOE updated its organizational structure which changed certain titles and reporting duties within EHSS. Certain of the EHSS's functions are subject to regulations in title 10 of the Code of Federal Regulations (CFR). As a result of the changes, title 10 of the CFR contains references to DOE organizational names and positions that are no longer current. This final rule amends certain regulations in title 10 of the CFR to reflect new organizational names and titles.

Specifically, DOE has changed the title of the Associate Under Secretary for Environment, Health, Safety and Security to the Director of the Office of Environment, Health, Safety and Security and amendments have been made to 10 CFR parts 602, 710, 712, 835, 850, 851, 1016, 1045, and 1046 to reflect that change. In 10 CFR part 725, the reference to "Chief Health, Safety and Security Officer" has been changed to the "Director, Office of Environment, Health, Safety and Security". The

Director of EHSS now reports directly to the Deputy Secretary of Energy rather than a DOE Under Secretary. In addition, the reference in 10 CFR part 1017 to the "Office of Health, Safety and Security" has been changed to the "Office of Environment, Health, Safety and Security". This final rule also updates the routing symbols of DOE's Office of Environment, Health, Safety and Security from AU to EHSS.

References in 10 CFR part 710 to the Deputy Associate Under Secretary for Environment, Health, Safety and Security have been changed to the Deputy Director for Security, Office of Environment, Health, Safety and Security. A previous reorganization in the Office of Environment, Health, Safety and Security divided the position of the Deputy Associate Under Secretary for Environment, Health, Safety and Security into the Deputy Associate Under Secretary for Environment, Health and Safety and the Deputy Associate Under Secretary for Security. Accordingly, in recognition of that reorganization and the change in titles, references to the Deputy Associate Under Secretary for Environment, Health, Safety and Security in 10 CFR part 710 are being changed to the Deputy Director for Security, Office of Environment, Health, Safety and Security.

Changes are also being made in 10 CFR part 851 to avoid confusion between references to the Director of the Office of Environment, Health, Safety and Security and the Director of the Office of Enforcement, who has been, until now, referred to as "Director" in 10 CFR part 851.

In addition, in 10 CFR part 851 DOE is deleting references to subpart G of 10 CFR part 1003, Office of Hearings and Appeals Procedural Regulations, because part 1003 has been amended and the references to subpart G are no longer correct.

This final rule also updates the titles of two of its Under Secretaries. In 10 CFR part 851, a reference to the "Under Secretary for Science and Energy, or Under Secretary for Management and Performance" is being changed to the "Under Secretary for Science and Innovation, or Under Secretary for Infrastructure". In 10 CFR part 1046, a reference to the "Under Secretary for Science" is being changed to the "Under Secretary for Science and Innovation".

None of the regulatory amendments in this notice of final rule alter substantive rights or obligations under current law.

II. Procedural Issues and Regulatory Review

A. Review Under Executive Order 12866

This regulatory action has been determined not to be significant for purposes of Executive Order 12866, “Regulatory Planning and Review,” 58 FR 51735 (October 4, 1993). As a result, the Office of Information and Regulatory Affairs (OIRA) within the Office of Management and Budget (OMB) did not review this rule.

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by Executive Order 13272, “Proper Consideration of Small Entities in Agency Rulemaking,” 67 FR 53461 (August 16, 2002), DOE published procedures and policies to ensure that the potential impacts of its draft rules on small entities are properly considered during the rulemaking process (68 FR 7990, February 19, 2003), and has made them available on the Office of General Counsel’s website: www.energy.gov/gc/office-general-counsel. Because there was no requirement to first publish this regulation for comment, as discussed above, no analysis is required for purposes of the Regulatory Flexibility Act.

C. Review Under the Paperwork Reduction Act of 1995

This rule does not impose a collection of information requirement subject to review and approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

D. Review Under the National Environmental Policy Act of 1969

Pursuant to the National Environmental Policy Act of 1969 (NEPA), DOE has analyzed this proposed action in accordance with NEPA and DOE’s NEPA implementing regulations (10 CFR part 1021). DOE’s regulations include a categorical exclusion (CX) for rulemakings interpreting or amending an existing rule or regulation that does not change the environmental effect of the rule or regulation being amended. *See* 10 CFR

part 1021, subpart D, appendix A5. DOE has determined that this rule is covered under the CX found in DOE’s NEPA regulations at paragraph A.5 of appendix A to subpart D, 10 CFR part 1021, because it amends existing regulations without changing the environmental effect of the rules and meets the requirements for the application of a CX. *See* 10 CFR 1021.410. Therefore, DOE has determined that this final rule is not a major Federal action significantly affecting the quality of the human environment within the meaning of NEPA, and does not require an Environmental Assessment or an Environmental Impact Statement.

E. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, Section 3(a) of Executive Order 12988, “Civil Justice Reform,” 61 FR 4729 (February 7, 1996), imposes on Federal agencies the general duty to adhere to the following requirements: (1) eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; (3) provide a clear legal standard for affected conduct rather than a general standard; and (4) promote simplification and burden reduction. Section 3(b) of Executive Order 12988 specifically requires that executive agencies make every reasonable effort to ensure that the regulation: (1) clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; (6) specifies whether administrative proceedings are to be required before parties may file suit in court and, if so, describes those proceedings and requires the exhaustion of administrative remedies; and (7) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, this final rule meets the relevant standards of Executive Order 12988.

F. Review Under Executive Order 13132

Executive Order 13132, “Federalism” (64 FR 43255 (August 4, 1999)), imposes certain requirements on agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. Agencies are required to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and carefully assess the necessity for such actions. The Executive order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735. DOE has examined this final rule and has determined that it would not preempt State law and would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. No further action is required by Executive Order 13132.

G. Review Under Executive Order 13175

Under Executive Order 13175 (65 FR 67249, November 6, 2000) on “Consultation and Coordination with Indian Tribal Governments,” DOE may not issue a discretionary rule that has “Tribal” implications and imposes substantial direct compliance costs on Indian Tribal governments. DOE has determined that the final rule will not have such effects and concluded that Executive Order 13175 does not apply to this final rule.

H. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4) requires each Federal agency to prepare a written assessment of the effects of any Federal mandate in a proposed or final agency regulation that may result in the expenditure by State, Tribal, or local governments, on the aggregate, or by the private sector, of \$100 million in any one year (adjusted annually for inflation). For a regulatory action likely to result in a rule that may cause this expenditure, section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy (2 U.S.C. 1532(a), (b)). The Act

also requires a Federal agency to develop an effective process to permit timely input by elected officials of State, Tribal, or local governments on a proposed “significant intergovernmental mandate,” and requires an agency plan for giving notice and opportunity to provide timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect small governments. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. (62 FR 12820) (This policy is also available at: www.energy.gov/gc/office-general-counsel under “Guidance & Opinions” (Rulemaking)). DOE examined this final rule according to UMRA and its statement of policy and has determined that the rule contains neither an intergovernmental mandate, nor a mandate that may result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any year. Accordingly, no further assessment or analysis is required under UMRA.

I. Review Under Executive Order 13211

Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,” 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to the OMB a Statement of Energy Effects for any proposed significant energy action. A “significant energy action” is defined as any action by an agency that promulgated or is expected to lead to promulgation of a final rule, and that: (1)(i) is a significant regulatory action under Executive Order 12866, or any successor order; and (ii) is likely to have a significant adverse effect on the supply, distribution, or use of energy, or (2) is designated by the Administrator of OIRA as a significant energy action. For any proposed significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use. DOE has concluded that this regulatory action will not have a significant adverse effect on the supply, distribution, or use of energy and is therefore not a significant energy action. Accordingly, DOE has not prepared a Statement of Energy Effects.

J. Review Under the Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277), requires Federal agencies to issue a Family Policymaking Assessment for any proposed rule that may affect family well-being. The final rule will not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

K. Review Under the Treasury and General Government Appropriations Act, 2001

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516 note) provides for Federal agencies to review most disseminations of information to the public under guidelines established by each agency pursuant to general guidelines issued by OMB. OMB’s guidelines were published at 67 FR 8452 (February 22, 2002), and DOE’s guidelines were published at 67 FR 62446 (October 7, 2002). Pursuant to OMB Memorandum M–19–15, Improving Implementation of the Information Quality Act (April 24, 2019), DOE published updated guidelines which are available at: www.energy.gov/sites/prod/files/2019/12/f70/DOE%20Final%20Updated%20IQA%20Guidelines%20Dec%202019.pdf.

DOE has reviewed this final rule under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

L. Administrative Procedure Act

The regulatory amendments in this notice of final rulemaking reflecting changes related solely to internal agency organization, management or personnel, and as such, are not subject to the requirement for a general notice of proposed rulemaking under the Administrative Procedure Act (APA). (See 5 U.S.C. 553(a)(2)). There is no requirement under the APA or any other law that this rule be proposed for public comment. For these same reasons, DOE finds good cause to waive the 30-day delay in effective date provided for in 5 U.S.C. 553(d).

M. Congressional Notification

As required by 5 U.S.C. 801(a)(1)(A), DOE will submit to Congress a report regarding the issuance of this final rule prior to the effective date set forth at the outset of this rulemaking. The report will state it has been determined that

the rule is not a “major rule” as defined by 5 U.S.C. 804(2).

III. Approval by the Office of the Secretary of Energy

The Secretary of Energy has approved publication of this final rule.

List of Subjects

10 CFR Part 602

Grant programs—health, Medical research, Occupational safety and health, Reporting and recordkeeping requirements.

10 CFR Part 710

Administrative practice and procedure, Classified information, Government contracts, Government employees, Nuclear energy.

10 CFR Part 712

Administrative practice and procedure, Alcohol abuse, Classified information, Drug abuse, Government contracts, Government employees, Health, Occupational safety and health, Radiation protection, Security measures.

10 CFR Part 725

Classified information, Nuclear materials, Reporting and recordkeeping requirements.

10 CFR Part 835

Federal buildings and facilities, Nuclear energy, Nuclear materials, Nuclear power plants and reactors, Nuclear safety, Occupational safety and health, Radiation protection, Reporting and recordkeeping requirements.

10 CFR Part 850

Beryllium, Hazardous substances, Lung diseases, Occupational safety and health, Reporting and recordkeeping requirements.

10 CFR Part 851

Civil penalties, Federal buildings and facilities, Occupational safety and health, Reporting and recordkeeping requirements.

10 CFR Part 1016

Classified information, Nuclear energy, Reporting and recordkeeping requirements, Security measures.

10 CFR Part 1017

Administrative practice and procedure, Government contracts, Nuclear energy, Penalties, Security measures.

10 CFR Part 1045

Classified information, Declassification, Formerly restricted data, Restricted data, Transclassified foreign nuclear information.

10 CFR Part 1046

Government contract, Reporting and recordkeeping requirements, Security measures.

Signing Authority

This document of the Department of Energy was signed on June 5, 2023, by Jennifer Granholm, Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on June 7, 2023.

Treena V. Garrett,

Federal Register Liaison Officer, U.S. Department of Energy.

For the reasons set forth in the preamble, the Department of Energy amends Chapters II, III, and X of Title 10 of the Code of Federal Regulations to read as follows:

PART 602—EPIDEMIOLOGY AND OTHER HEALTH STUDIES FINANCIAL ASSISTANCE PROGRAM

- 1. The authority citation for part 602 continues to read as follows:

Authority: 42 U.S.C. 2051; 42 U.S.C. 5817; 42 U.S.C. 5901–5920; 42 U.S.C. 7254 and 7256; 31 U.S.C. 6301–6308.

§ 602.4 [Amended]

- 2. Section 602.4 is amended in paragraph (a) by removing the words “Associate Under Secretary for Environment, Health, Safety and Security” and adding in their place the words “Director, Office of Environment, Health, Safety and Security”.

§ 602.7 and 602.10 [Amended]

- 3. Sections 602.7(c) and 602.10(b) and (c) are amended by removing “AU–13” and adding in its place “EHSS–13”.

§ 602.16 [Amended]

- 4. Section 602.16 is amended by removing “AU–60,” and adding in its place “EHSS–60,”.

PART 710—PROCEDURES FOR DETERMINING ELIGIBILITY FOR ACCESS TO CLASSIFIED MATTER AND SPECIAL NUCLEAR MATERIAL

- 5. The authority citation for part 710 continues to read as follows:

Authority: 42 U.S.C. 2165, 2201, 5815, 7101, *et seq.*, 7383h–1; 50 U.S.C. 2401 *et seq.*; E.O. 10865, 3 CFR 1959–1963 comp., p. 398, as amended, 3 CFR Chap. IV; E.O. 13526, 3 CFR 2010 Comp., pp. 298–327 (or successor orders); E.O. 12968, 3 CFR 1995 Comp., p. 391.

§§ 710.8, 710.9, 710.28, 710.29, and 710.31 [Amended]

- 6. Remove the words “Deputy Associate Under Secretary for Environment, Health, Safety and Security” and add in their place the words “Deputy Director for Security, Office of Environment, Health, Safety and Security” in the following places:
 - a. Section 710.8(d);
 - b. Section 710.9(h);
 - c. Section 710.28(c)(2) and (3);
 - d. Section 710.29(a) and (b); and
 - e. Section 710.31(b)(1) through (3).

§ 710.34 [Amended]

- 7. Section 710.34 is amended by:
 - a. Removing the words “Deputy Associate Under Secretary for Environment, Health, Safety and Security”, in two instances, and adding in their places the words “Deputy Director for Security, Office of Environment, Health, Safety and Security”; and
 - b. Removing “Associate Under Secretary for Environment, Health, Safety and Security” and adding in its place the words “Director, Office of Environment, Health, Safety and Security”.

PART 712—HUMAN RELIABILITY PROGRAM

- 8. The authority citation for part 712 continues to read as follows:

Authority: 42 U.S.C. 2165; 42 U.S.C. 2201; 42 U.S.C. 5814–5815; 42 U.S.C. 7101 *et seq.*; 50 U.S.C. 2401 *et seq.*; E.O. 10450, 3 CFR 1949–1953 Comp., p. 936, as amended; E.O. 10865, 3 CFR 1959–1963 Comp., p. 398, as amended; 3 CFR Chap. IV.

- 9. Section 712.3 is amended by:
 - a. Removing the definition of “Associate Under Secretary for Environment, Health, Safety and Security”;
 - b. Adding in alphabetical order a definition for “Director, Office of Environment, Health, Safety and Security”; and
 - c. Removing from the definitions of “Designated Physician” and “Designated Psychologist” the words

“Associate Under Secretary for Environment, Health, Safety and Security” and adding in their place the words “Director, Office of Environment, Health, Safety and Security”.

The addition reads as follows.

§ 712.3 Definitions.

* * * * *

Director, Office of Environment, Health, Safety and Security means the DOE individual with responsibility for policy and quality assurance for DOE occupational medical programs.

* * * * *

§§ 712.4, 712.10, 712.12, 712.14, 712.23, 712.24, 712.34, 712.35 and 712.36 [Amended]

- 10. Remove the words “Associate Under Secretary for Environment, Health, Safety and Security” and add in their place, the words “Director, Office of Environment, Health, Safety and Security” in the following places:
 - a. Section 712.4;
 - b. Section 712.10(b);
 - c. Section 712.12(c)(1) and (d) introductory text;
 - d. Section 712.14(f)(1) and (3);
 - e. Section 712.23(a), (b) introductory text, and (c);
 - f. Section 712.24(a);
 - g. Section 712.34(a), (b) introductory text, (c), and (d);
 - h. Section 712.35 heading and introductory text; and
 - i. Section 712.36(d)(1) and (3).

PART 725—PERMITS FOR ACCESS TO RESTRICTED DATA

- 11. The authority citation for part 725 continues to read as follows:

Authority: Sec. 161 of the Atomic Energy Act of 1954, as amended, 68 Stat. 943, 42 U.S.C. 2201.

§§ 725.1, 725.4, 725.7, 725.13, 725.21, 725.23, 725.24, 725.25; 725.28, 725.29, and 725.30 [Amended]

- 12. Remove the words “Chief Health, Safety and Security Officer” and add in their place the words “Director, Office of Environment, Health, Safety and Security” in the following places:
 - a. Section 725.1;
 - b. Section 725.4;
 - c. Section 725.7;
 - d. Section 725.13 in two instances;
 - e. Section 725.21(a);
 - f. Section 725.23(b) and in the introductory text of the agreement in paragraph (c)(4);
 - g. Section 725.24 introductory text;
 - h. Section 725.25(b);
 - i. Section 725.28;
 - j. Section 725.29; and
 - k. Section 725.30

§ 725.3 [Amended]

■ 13. Section 725.3 is amended by revising paragraph (d) to read as follows.

§ 725.3 Definitions.

* * * * *

(d) *Director of the Office of Environment, Health, Safety and Security* means the DOE official to whom the Secretary assigns the authority to develop policy and technical assistance; safety analysis; and organizational safety and security programs, or the Director's duly authorized representatives.

* * * * *

§§ 725.5 and 725.11 [Amended]

■ 14. Remove the words "Chief Health, Safety and Security Officer, HS-1/Forrestal Building" and adding, in its place, the words "Director, Office of Environment, Health, Safety and Security, EHSS-1" in the following instances:

- a. Section 725.5; and
- b. Section 725.11(a).

PART 835—OCCUPATIONAL RADIATION PROTECTION

■ 15. The authority citation for part 835 continues to read as follows:

Authority: 42 U.S.C. 2201, 7191, 50 U.S.C. 2410.

§ 835.1 [Amended]

■ 16. Section 835.1 is amended in paragraph (b)(6) by removing the words "Associate Under Secretary for Environment, Health, Safety and Security" and adding in its place the words "Director, Office of Environment, Health, Safety and Security".

PART 850—CHRONIC BERYLLIUM DISEASE PREVENTION PROGRAM

■ 17. The authority citation for part 850 continues to read as follows:

Authority: 42 U.S.C. 2201(i)(3), (p); 42 U.S.C. 2282c; 29 U.S.C. 668; 42 U.S.C. 7101 *et seq.*; 50 U.S.C. 2401 *et seq.*, E.O. 12196, 3 CFR 1981 comp., at 145 as amended.

§ 850.10 [Amended]

■ 18. Section 850.10 is amended in paragraph (b)(2) by removing the words "Associate Under Secretary for Environment, Health, Safety and Security" and adding in their place the words "Director, Office of Environment, Health, Safety and Security".

§ 850.39 [Amended]

■ 19. Section 850.39 is amended in paragraph (g) by removing the words "DOE Chief Health, Safety and Security

Officer" and adding in their place the words "Director, Office of Environment, Health, Safety and Security".

PART 851—WORKER SAFETY AND HEALTH PROGRAM

■ 20. The authority citation for part 851 continues to read as follows:

Authority: 42 U.S.C. 2201(i)(3), (p); 42 U.S.C. 2282c; 42 U.S.C. 5801 *et seq.*; 42 U.S.C. 7101 *et seq.*; 50 U.S.C. 2401 *et seq.*, 28 U.S.C. 2461 note.

§ 851.3 [Amended]

■ 21. Section 851.3 is amended in paragraph (a) by:

- a. Removing the word "Director" and adding in its place the words "Enforcement Director" in the definition of "Consent order";
- b. Removing the definition of "Director";
- c. Adding in alphabetical order definitions for "Director of the Office of Enforcement (Enforcement Director)" and "Director of the Office of Environment, Health, Safety and Security (EHSS Director)";
- d. Removing the word "Director" and adding in its place the words "Enforcement Director" in the definition of "DOE Enforcement Officer"; and
- e. Removing the words "Under Secretary for Science and Energy, or Under Secretary for Management and Performance" and adding in their place the words "Under Secretary for Science and Innovation, or Under Secretary for Infrastructure" in the definition of "Under Secretary".

The additions read as follows.

§ 851.3 Definitions.

* * * * *

Director of the Office of Enforcement (Enforcement Director) means the DOE official designated by the Secretary, or that person's designee, to carry out the enforcement authorities reflected in subpart E of this part.

Director of the Office of Environment, Health, Safety and Security (EHSS Director) means the DOE official to whom the Secretary assigns the authority to develop policy and technical assistance; safety analysis; and organizational safety and security programs.

* * * * *

§ 851.11 [Amended]

■ 22. Section 851.11 is amended in paragraph (b)(2) by removing the words "Associate Under Secretary for Environment, Health, Safety and Security" and adding in their place the words "EHSS Director".

§ 851.20 [Amended]

■ 23. Section 851.20 is amended in paragraph (b)(5) by removing the word "Director" in two places and adding in its place the words "Enforcement Director".

§ 851.30 [Amended]

■ 24. Section 851.30 is amended in paragraph (a) by removing the words "Associate Under Secretary for Environment, Health, Safety and Security" and adding in their place the words "EHSS Director".

§ 851.31 [Amended]

■ 25. Section 851.31 is amended by:

- a. Removing the words "Associate Under Secretary for Environment, Health, Safety and Security" and adding in their place the words "EHSS Director" in paragraphs (a)(1) through (3) and (b) introductory text;
- b. Removing the words "Associate Under Secretary" and adding in their place the words "EHSS Director" in paragraph (b) introductory text; and
- c. Removing the words "Associate Under Secretary for Environment, Health, Safety and Security" and adding in their place the words "EHSS Director" in paragraph (c)(5).

■ 26. Section 851.32 is amended by:

- a. Revising paragraph (a)(1);
- b. Removing the words "Associate Under Secretary for Environment, Health, Safety and Security" and adding in their place the words "EHSS Director" in paragraphs (a)(2) and (4);
- c. Revising paragraph (c)(1); and
- d. Removing the words "Associate Under Secretary for Environment, Health, Safety and Security" and adding in their place the words "EHSS Director" in paragraphs (c)(2)(i) and (ii).

The revisions read as follows:

§ 851.32 Action on variance requests.

(a) * * *

(1) If the EHSS Director recommends approval of a variance application, the EHSS Director must forward to the Under Secretary the variance application and the approval recommendation including a discussion of the basis for the recommendation and any terms and conditions proposed for inclusion as part of the approval.

* * * * *

(c) * * *

(1) If the EHSS Director recommends denial of a variance application, the EHSS Director must notify the CSO of the denial recommendation and the grounds for the denial recommendation.

* * * * *

§ 851.34 [Amended]

■ 27. Section 851.34 is amended in paragraphs (a) and (c) by removing the words “Associate Under Secretary for Environment, Health, Safety and Security” and add, in their place, the words “EHSS Director”.

■ 28. Section 851.40 is amended by:

- a. Revising paragraph (a);
- b. Removing the word “Director” and adding in its place the words “Enforcement Director” wherever it appears in paragraphs (b) through (e);
- c. Removing the word “Director’s” in paragraph (e) and adding in its place the word “Enforcement Director’s”; and
- d. Removing the word “Director” and adding in its place the words “Enforcement Director” wherever it appears in paragraphs (f) and (h) through (k).

The revision reads as follows:

§ 851.40 Investigations and inspections.

(a) The Enforcement Director may initiate and conduct investigations and inspections relating to the scope, nature, and extent of compliance by a contractor with the requirements of this part and take such action as the Enforcement Director deems necessary and appropriate to the conduct of the investigation or inspection. DOE Enforcement Officers have the right to enter work areas without delay to the extent practicable, to conduct inspections under this subpart.

* * * * *

§§ 851.41 and 851.42 [Amended]

■ 29. Remove the word “Director” and add in its place the words “Enforcement Director” in the following places:

- a. Section 851.41(a), (b) introductory text, and (b)(1); and
- b. Section 851.42(a), two instances, and (b)(4).

§ 851.43 [Amended]

■ 30. Section 851.43 is amended by removing the word “Director” and adding in its place the words “Enforcement Director” in paragraph (a) and two instances in paragraph (b), and by removing “, subpart G” in paragraph (b).

§ 851.44 [Amended]

■ 31. Section 851.44 is amended in paragraph (a) by removing “part 1003, subpart G of this title” and adding in its place “10 CFR part 1003”.

§ 851.45 [Amended]

■ 32. Section 851.45 is amended by:
■ a. Removing the words “Director” and adding in its place the words “Enforcement Director” in paragraph (a) introductory text; and

■ b. Removing the word “Director’s” adding in its place the words “Enforcement Director’s” in paragraph (b).

Appendix B to Part 851 [Amended]

■ 33. Appendix B to part 851 is amended:

- a. In section IV by:
 - i. Removing the word “Director” and adding in its place the words “Enforcement Director” in paragraphs (a) introductory text and (b) introductory text; and
 - ii. Removing the word “Director’s” and adding in its place the words “Enforcement Director’s” in paragraph (b)(3);
- b. In section V by:
 - i. Removing the word “Director” and adding in its place the words “Enforcement Director” in paragraph (b) introductory text and two instances in paragraph (b)(3); and
 - ii. Removing “Subpart G,” in paragraph (c).
- c. In section VII, by removing the word “Director” and adding in its place the words “Enforcement Director” in paragraph (b);
- d. In section VIII, by removing the word “Director” and adding in its place the words “Enforcement Director” in paragraph (a); and
- e. In section IX, by removing the word “Director” and adding in its place the words “Enforcement Director” in paragraphs 1(e)(2) and 2(d).

PART 1016—SAFEGUARDING OF RESTRICTED DATA BY ACCESS PERMITTEES

■ 34. The authority for part 1016 continues to read as follows:

Authority: Sec. 161i of the Atomic Energy Act of 1954, 68 Stat. 948 (42 U.S.C. 2201).

§ 1016.4 [Amended]

■ 35. Section 1016.4 is amended by removing the words “Associate Under Secretary, Office of Environment, Health, Safety and Security, AU-1” and adding in their place the words “Director, Office of Environment, Health Safety and Security, EHSS-1”.

§ 1016.19 [Amended]

■ 36. Section 1016.19 is amended in paragraphs (a) and (c) by removing “AU-60” and adding in its place “EHSS-60”.

PART 1017—IDENTIFICATION AND PROTECTION OF UNCLASSIFIED CONTROLLED NUCLEAR INFORMATION

■ 37. The authority citation for part 1017 continues to read as follows:

Authority: 42 U.S.C. 7101 et seq.; 50 U.S.C. 2401 et seq.; 42 U.S.C. 2168; 28 U.S.C. 2461 note.

§§ 1017.5 and 1017.13 [Amended]

■ 38. Sections 1017.5(c) and 1017.13 are amended by removing the words “Office of Health, Safety and Security” and adding in their place the words “Office of Environment, Health, Safety and Security”.

PART 1045—NUCLEAR CLASSIFICATION AND DECLASSIFICATION

■ 39. The authority citation for part 1045 continues to read as follows:

Authority: 42 U.S.C. 2011; E.O. 13526, 75 FR 705, 3 CFR 2010 Comp., pp. 298-327.

§§ 1045.15 and 1045.20 [Amended]

■ 40. Sections 1045.15 and 1045.20 are amended by removing the word “AU-60” and adding in its place the word “EHSS-60”.

■ 41. Section 1045.30 is amended by:

- a. Removing the definition of “Associate Under Secretary for Environment, Health, Safety and Security”; and
- b. Adding in alphabetical order a definition for “Director, Office of Environment, Health, Safety and Security”.

The addition reads as follows.

§ 1045.30 What definitions apply to this part?

* * * * *

Director, Office of Environment, Health, Safety and Security means DOE’s Director for Environment, Health, Safety and Security or any person to whom the Director’s duties are delegated.

* * * * *

§ 1045.45 [Amended]

■ 42. Section 1045.45 is amended in paragraph (b) introductory text by removing the words “Associate Under Secretary for Environment, Health, Safety and Security” and adding in their place the words “Director, Office of Environment, Health, Safety and Security”.

§ 1045.55 [Amended]

■ 43. Section 1045.55 is amended in paragraph (d) by removing “AU-60” and adding in its place “EHSS-60”.

§§ 1045.60, 1045.80, 1045.85, and 1045.100 [Amended]

■ 44. Sections 1045.60, 1045.80(a), 1045.85(a)(1) and (2), and 1045.100(b) are amended by removing the words “Associate Under Secretary for

Environment, Health, Safety and Security” and adding in their place the words “Director, Office of Environment, Health, Safety and Security”.

§ 1045.105 [Amended]

- 45. Section 1045.105 is amended by:
 - a. Removing the words “Associate Under Secretary for Environment, Health, Safety and Security” and adding, in their place, the words “Director, Office of Environment, Health, Safety and Security” in paragraph (b); and
 - b. Removing the words “Associate Under Secretary for Environment, Health, Safety and Security, AU–1” and adding, in their place, the words “Director, Office of Environment, Health, Safety and Security, EHSS–1” in paragraph (c).

§ 1045.110 [Amended]

- 46. Section 1045.110 is amended by:
 - a. Removing “AU–60” and adding in its place “EHSS–60” in paragraph (c)(1); and
 - b. Removing the words “Associate Under Secretary for Environment, Health, Safety and Security, AU–1” and adding in their place the words “Director, Office of Environment, Health, Safety and Security, EHSS–1” in paragraph (c)(5).

§ 1045.180 [Amended]

- 47. Section 1045.180 is amended by:
 - a. Removing “Associate Under Secretary of Environment, Health, Safety and Security at the following address: Associate Under Secretary for Environment, Health, Safety and Security, AU–1” and adding in their place the words “Director, Office of Environment, Health, Safety and Security at the following address: Director, Office of Environment, Health, Safety and Security, EHSS–1” in paragraph (b)(1); and
 - b. Removing the words “Associate Under Secretary of Environment, Health, Safety and Security” and adding in their place the words “Director, Office of Environment, Health, Safety and Security” in paragraphs (b)(2), (d), and (e)(1) and (2).

§ 1045.190 [Amended]

- 48. Section 1045.190 is amended in paragraph (b) by removing “AU–60” and adding in its place “EHSS–60”.

§ 1045.210 [Amended]

- 49. Section 1045.210 is amended by:
 - a. Removing the words “Associate Under Secretary of Environment, Health, Safety and Security” and adding in their place the words “Director,

Office of Environment, Health, Safety and Security” in paragraph (a); and

- b. Removing the words “Associate Under Secretary for Environment, Health, Safety and Security, AU–1” and adding in their place the words “Director, Office of Environment, Health, Safety and Security, EHSS–1” in paragraph (b) introductory text.

§§ 1045.215 and 1045.220 [Amended]

- 50. Sections 1045.215(a) and (b) and 1045.220(a) and (b) are amended by removing the words “Associate Under Secretary of Environment, Health, Safety and Security” and adding in their place the words “Director, Office of Environment, Health, Safety and Security”.

PART 1046—MEDICAL, PHYSICAL READINESS, TRAINING, AND ACCESS AUTHORIZATION STANDARDS FOR PROTECTIVE FORCE PERSONNEL

- 51. The authority citation for part 1046 continues to read as follows:

Authority: 42 U.S.C. 2011, *et seq.*; 42 U.S.C. 7101, *et seq.*; 50 U.S.C. 2401, *et seq.*

§ 1046.2 [Amended]

- 52. Section 1046.2 is amended by:
 - a. Removing the words “Associate Under Secretary for the Office of Environment, Health, Safety and Security (AU–1)” and adding in their place the words “Director, Office of Environment, Health, Safety and Security (EHSS–1)” in paragraph (c);
 - b. Removing the words “AU or its successor organization. AU–1” and adding in their place the words “EHSS or its successor organization. EHSS–1” in paragraph (d); and
 - c. Removing from paragraph (e) the words:
 - i. “Under Secretary for Science” and adding in their place the words “Under Secretary for Science and Innovation”; and
 - ii. “Associate Under Secretary for Environment, Health, Safety and Security” and adding in their place the words “Director, Office of Environment, Health, Safety and Security”.

§ 1046.3 [Amended]

- 53. Section 1046.3 is amended in the definitions of “Designated Physician” and “Weapons proficiency demonstration” by removing “AU–1” and adding in its place “EHSS–1”.

§ 1046.4 [Amended]

- 54. Section 1046.4 is amended in paragraphs (a)(1) introductory text, (a)(1)(iv), (a)(2) and (3), (b) introductory text, (d)(1) introductory text, (d)(2), and

(e) through (g) by removing the “AU–1” and adding in its place “EHSS–1”.

§ 1046.5 [Amended]

- 55. Section 1046.5 is amended in paragraph (c) by removing “AU–1” and adding in its place “EHSS–1”.

§ 1046.13 [Amended]

- 56. Section 1046.13 is amended by:
 - a. Removing “AU–1” and adding in its place “EHSS–1” in paragraph (b)(3);
 - b. Removing the words “Office of Environment, Health, Safety and Security” and adding in their place the words “Office of Environment, Health, Safety and Security” in paragraph (f); and
 - c. Removing the words “Chief Health, Safety and Security Officer” and adding in their place the words “Director, Office of Environment, Health, Safety and Security” in paragraph (g)(1)(i).

§ 1046.15 [Amended]

- 57. Section 1046.15 is amended in paragraphs (c) introductory text, (c)(1) through (3), (c)(4) introductory text, (c)(4)(iii), (c)(5), (c)(6) introductory text, (c)(7) and (8), and (d) by removing “AU–1” and adding in its place “EHSS–1” wherever it appears.

§ 1046.17 [Amended]

- 58. Section 1046.17 is amended in paragraph (k)(6) by removing “AU–1” and adding in its place “EHSS–1”.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 25 and 121

[Docket No.: FAA–2022–0772; Amdt. Nos. 25–150 and 121–389]

RIN 2120–AL59

Installation and Operation of Flightdeck Installed Physical Secondary Barriers on Transport Category Airplanes in Part 121 Service

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: This final rule implements a mandate in the FAA Reauthorization Act of 2018 by requiring that certain airplanes used to conduct domestic, flag, or supplemental passenger-carrying operations have installed a physical secondary barrier that protects the flightdeck from unauthorized intrusion when the flightdeck door is opened.