

(1) OMB will not require a requester to make an advance payment, *i.e.*, payment before work is commenced or continued on a request, unless OMB estimates or determines that allowable charges that a requester may be required to pay will exceed \$250 or the requester has previously failed to make a payment due within 30 days of billing.

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[FR Doc. 2023-27473 Filed 12-19-23; 8:45 am]

BILLING CODE 3110-01-P

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 50 and 52

[NRC-2023-0216]

Draft Regulatory Guide: Installation, Inspection, and Testing for Class 1E Power, Instrumentation, and Control Equipment at Production and Utilization Facilities

AGENCY: Nuclear Regulatory
Commission.

ACTION: Draft guide; request for
comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing for public comment a draft regulatory guide (DG), DG-1419, “Installation, Inspection, and Testing for Class 1E Power, Instrumentation, and Control Equipment at Production and Utilization Facilities.” This DG is proposed Revision 1 to Regulatory Guide (RG) 1.30, “Quality Assurance Requirements for the Installation, Inspection, and Testing of Instrumentation and Electric Equipment (Safety Guide 30).” DG-1419 describes an approach that is acceptable to the NRC staff to meet the regulatory requirements for installation, inspection, and testing for Class 1E power, instrumentation, and control equipment at production and utilization facilities.

DATES: Submit comments by January 19, 2024. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date.

ADDRESSES: You may submit comments by any of the following methods; however, the NRC encourages electronic comment submission through the Federal rulemaking website:

- *Federal Rulemaking Website:* Go to <https://www.regulations.gov> and search

for Docket ID NRC-2023-0216. Address questions about Docket IDs in *Regulations.gov* to Stacy Schumann; telephone: 301-415-0624; email: Stacy.Schumann@nrc.gov. For technical questions, contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- *Mail Comments to:* Office of Administration, Mail Stop: TWFN-7-A60M, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, ATTN: Program Management, Announcements and Editing Staff.

For additional direction on obtaining information and submitting comments, see “Obtaining Information and Submitting Comments” in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Darrell Murdock, Office of Nuclear Regulatory Research, telephone: 301-415-1591; email: Darrell.Murdock@nrc.gov and Michael Eudy, Office of Nuclear Regulatory Research, telephone: 301-415-3104; email: Michael.Eudy@nrc.gov. Both are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC-2023-0216 when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to <https://www.regulations.gov> and search for Docket ID NRC-2023-0216.

- *NRC’s Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select “Begin Web-based ADAMS Search.” For problems with ADAMS, please contact the NRC’s Public Document Room (PDR) reference staff at 1-800-397-4209, at 301-415-4737, or by email to PDR.Resource@nrc.gov. The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.

- *NRC’s PDR:* The PDR, where you may examine and order copies of publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to PDR.Resource@nrc.gov or call 1-800-397-4209 or 301-415-

4737, between 8 a.m. and 4 p.m. eastern time (ET), Monday through Friday, except Federal holidays.

B. Submitting Comments

The NRC encourages electronic comment submission through the Federal rulemaking website (<https://www.regulations.gov>). Please include Docket ID NRC-2023-0216 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at <https://www.regulations.gov> as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Additional Information

The NRC is issuing for public comment a DG in the NRC’s “Regulatory Guide” series. This series was developed to describe methods that are acceptable to the NRC staff for implementing specific parts of the agency’s regulations, to explain techniques that the staff uses in evaluating specific issues or postulated events, and to describe information that the staff needs in its review of applications for permits and licenses.

The DG, entitled “Installation, Inspection, and Testing for Class 1E Power, Instrumentation, and Control Equipment at Production and Utilization Facilities,” is temporarily identified by its task number, DG-1419 (ADAMS Accession No. ML23222A182).

This DG is proposed Revision 1 to RG 1.30 (also known as Safety Guide 30) and describes an approach that is acceptable to the NRC staff to meet the regulatory requirements for installation, inspection, and testing for Class 1E power, instrumentation, and control equipment at production and utilization facilities. DG-1419 endorses, with a clarification, Institute of Electrical and Electronics Engineers (IEEE) Standard (Std) 336-2020, “IEEE Recommended Practice for Installation, Inspection, and

Testing for Class 1E Power, Instrumentation, and Control Equipment at Nuclear Facilities.” DG–1419 also removes all quality assurance (QA) requirements from RG 1.30 and addresses the requirements of a QA program for design and construction in RG 1.28, Revision 6, “Quality Assurance Program Criteria (Design and Construction),” (ADAMS Accession No. ML23177A002), and for operation in RG 1.33, Revision 3, “Quality Assurance Program Requirements (Operation),” (ADAMS Accession No. ML13109A458).

The staff is also issuing for public comment a draft regulatory analysis (ADAMS Accession No. ML23235A321). The staff developed a regulatory analysis to assess the value of issuing or revising a regulatory guide as well as alternative courses of action.

As noted in the **Federal Register** on December 9, 2022 (87 FR 75671), this document is being published in the “Proposed Rules” section of the **Federal Register** to comply with publication requirements under 1 CFR chapter I.

III. Backfitting, Forward Fitting, and Issue Finality

Issuance of DG–1419, if finalized, would not constitute backfitting as defined in section 50.109 of title 10 of the *Code of Federal Regulations* (10 CFR), “Backfitting,” and as described in NRC Management Directive (MD) 8.4, “Management of Backfitting, Forward Fitting, Issue Finality, and Information Requests”; affect issue finality of any approval issued under 10 CFR part 52, “Licenses, Certificates, and Approvals for Nuclear Power Plants”; or constitute forward fitting as defined in MD 8.4, because, as explained in DG–1419, licensees would not be required to comply with the positions set forth in DG–1419.

IV. Submitting Suggestions for Improvement of Regulatory Guides

A member of the public may, at any time, submit suggestions to the NRC for improvement of existing RGs or for the development of new RGs. Suggestions can be submitted on the NRC’s public website at <https://www.nrc.gov/reading-rm/doc-collections/reg-guides/contactus.html>. Suggestions will be considered in future updates and enhancements to the “Regulatory Guide” series.

Dated: December 14, 2023.

For the Nuclear Regulatory Commission.

Stephen M. Wyman,

Acting Chief, Regulatory Guide and Programs Management Branch, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. 2023–27961 Filed 12–19–23; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

29 CFR Part 2510

RIN 1210–AC16

Definition of “Employer”—Association Health Plans

AGENCY: Employee Benefits Security Administration, Department of Labor.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes to rescind the Department of Labor’s (Department or DOL) 2018 rule entitled “Definition of Employer—Association Health Plans” (2018 AHP Rule). The 2018 AHP Rule establishes an alternative set of criteria from those set forth in the Department’s pre-rule guidance for determining when a group or association of employers is acting “indirectly in the interest of an employer” under section 3(5) of the Employee Retirement Income Security Act of 1974 (ERISA) for purposes of establishing an association health plan (AHP) as a multiple employer group health plan. The 2018 AHP Rule’s alternative criteria were set aside in large part by the U.S. District Court for the District of Columbia in *New York v. United States Department of Labor*. The district court found the bona fide association and working owner provisions in the rule to be an unreasonable interpretation of ERISA, inconsistent with congressional intent that ERISA applies to employee benefits arising out of employment relationships. The Department, after further review of the relevant statutory language, judicial decisions, and pre-rule guidance, and further consideration of ERISA’s statutory purposes and related policy goals, now proposes to rescind in full the 2018 AHP Rule in order to resolve and mitigate any uncertainty regarding the status of the standards that were set under the 2018 AHP Rule, allow for a reexamination of the criteria for a group or association of employers to be able to sponsor an AHP, and ensure that guidance being provided to the regulated community is in alignment with ERISA’s text, purposes, and policies.

DATES: Comments are due on or before February 20, 2024.

ADDRESSES: You may submit written comments, identified by RIN 1210–AC16, by one of the following methods: *Federal eRulemaking Portal:* <https://www.regulations.gov>. Follow the instructions for submitting comments. To facilitate receipt and processing of comments, the Department encourages interested parties to submit their comments electronically.

Mail: Office of Regulations and Interpretations, Employee Benefits Security Administration, Room N–5655, U.S. Department of Labor, 200 Constitution Ave. NW, Washington, DC 20210, Attention: Proposed Rescission of AHP Final Rule RIN 1210–AC16.

Instructions: All submissions must include the agency name and Regulatory Identifier Number (RIN) for this rulemaking. Any comment that is submitted will be shared with the Internal Revenue Service (IRS). If you submit comments electronically, do not submit paper copies. Comments will be available to the public, without charge, online at <https://www.regulations.gov> and <https://www.dol.gov/agencies/ebsa> and at the Public Disclosure Room, Employee Benefits Security Administration, Suite N–1513, 200 Constitution Ave. NW, Washington, DC 20210.

Warning: Do not include any personally identifiable or confidential business information that you do not want publicly disclosed. Comments are public records posted on the internet as received and can be retrieved by most internet search engines.

Docket: Go to the Federal eRulemaking Portal at <https://www.regulations.gov> for access to the rulemaking docket, including any background documents and the plain-language summary of the proposed rule of not more than 100 words in length required by the Providing Accountability Through Transparency Act of 2023.

FOR FURTHER INFORMATION CONTACT: Suzanne Adelman, Office of Regulations and Interpretations, Employee Benefits Security Administration, U.S. Department of Labor, (202) 693–8500 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Background

A. Definition of Employer Under Section 3(5) of ERISA

ERISA regulates “employee benefit plans” (classified as “employee welfare benefit plans” and “employee pension benefit plans”), and generally preempts State laws that relate to or have a