may hold any of the loans described in paragraph (b) of this section that were acquired before [EFFECTIVE DATE OF THE FINAL RULE]; provided the transaction was in compliance with this section at the time the transaction was executed.

(6) Purchases of eligible obligations and notes of liquidating credit unions must comply with the purchasing Federal credit union's internal written purchase policies, which must:

(i) Require that the purchasing Federal credit union conduct due diligence on the seller of the loans and other counterparties to the transaction prior to the purchase.

(ii) Establish risk assessment and risk management process requirements that are commensurate with the size, scope, type, complexity, and level of risk posed by the planned loan purchase activities.

(iii) Establish internal underwriting and ongoing monitoring standards that are commensurate with the size, scope, type, complexity, and level of risk posed by the loan purchase activities. Underwriting and ongoing monitoring standards must address the borrower's creditworthiness and ability to repay, and the support provided by collateral if the collateral was used as part of the credit decision.

(iv) Require that the written purchase agreement include:

(A) The specific loans being purchased (either directly in the agreement or through a document that is incorporated by reference into the agreement);

(B) The location and custodian for the original loan documents;

(C) An explanation of the duties and responsibilities of the seller, servicer, and all parties with respect to all aspects of the loans being purchased, including servicing, default, foreclosure, collection, and other matters involving the ongoing administration of the loans, if applicable; and

(D) The circumstances and conditions under which the parties to the agreement may replace the servicer when the seller retains the servicing rights for the loans being purchased, if applicable.

(v) Establish portfolio concentration limits by loan type and risk category in relation to net worth that are commensurate with the size, scope, and complexity of the credit union's loan purchases. The policy limits must take into account the potential impact of loan concentrations on the purchasing credit union's earnings, loan loss reserves, and net worth.

(vi) Address when a legal review of agreements or contracts will be performed to ensure that the legal and business interests of the credit union are protected against undue risk.

(c) * * *

(1) The board of directors or investment committee approves the sale;

(2) A written agreement, and a schedule of the eligible obligations covered by the agreement, is retained by the selling credit union that identifies the specific loans being sold either directly in the agreement or through a document that is incorporated by reference into the agreement; and

(3) A legal review of the written agreement is completed that includes the terms, recourse, and risk-sharing arrangements, and, as applicable, loan administration and controls, to ensure that the selling Federal credit union's legal and business interests are protected from undue risks.

(d) * * *

(1) * * *

(iii) A written agreement covering the pledging arrangement is retained by the credit union that pledges the eligible obligations.

* * * * *

(g) *Payments and compensation*—

* * *

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PART 714—LEASING

■ 5. The authority citation for part 714 continues to read as follows:

Authority: 12 U.S.C. 1756, 1757, 1766, 1785, 1789.

§ 714.9 [Removed and Reserved]

■ 6. Remove and reserve § 714.9.

[FR Doc. 2022–27607 Filed 12–29–22; 8:45 am]

BILLING CODE 7535–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–114666–22]

RIN 1545–BQ50

Use of an Electronic Medium To Make Participant Elections and Spousal Consents

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document sets forth a proposed regulation relating to the use of an electronic medium for participant elections and spousal consents. The proposed regulation provides an alternative to in-person witnessing of spousal consents required to be witnessed by a notary public or a plan representative, and clarifies that certain special rules for the use of an electronic medium for participant elections also apply to spousal consents. The proposed regulation generally affects sponsors and administrators of, and individuals entitled to benefits under, certain qualified retirement plans. This document also provides a notice of a public hearing.

DATES: Written or electronic comments must be received by March 30, 2023. A telephonic public hearing on this proposed regulation has been scheduled for April 11, 2023, at 10:00 a.m. ET. Requests to speak and outlines of topics to be discussed at the public hearing must be received by March 30, 2023. If no outlines are received by March 30, 2023, the public hearing will be cancelled. Requests to attend the public hearing must be received by 5:00 p.m. ET on April 7, 2023. The public hearing will be made accessible to people with disabilities. Requests for special assistance during the public hearing must be received by April 6, 2023.

ADDRESSES: Commenters are strongly encouraged to submit public comments electronically. Submit electronic submissions via the Federal eRulemaking Portal at *www.regulations.gov* (indicate IRS and REG–114666–22) by following the online instructions for submitting comments. Once submitted to the Federal eRulemaking Portal, comments cannot be edited or withdrawn. The Department of the Treasury (''Treasury Department'') and the IRS will publish for public availability any comment submitted electronically or on paper to its public docket on *www.regulations.gov.* Send paper submissions to: CC:PA:LPD:PR (REG–114666–22), Room 5203, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Concerning the regulation, call Arslan Malik at (202) 317–6700 or Pamela Kinard at (202) 317–6000; concerning submission of comments, the hearing, and the access code to attend the hearing by telephone, call Vivian Hayes at (202) 317–5306 (not toll-free numbers) or email *publichearings@irs.gov* (preferred).

SUPPLEMENTARY INFORMATION:

Background

A. In General

This document sets forth proposed amendments to 26 CFR part 1 under section 401 of the Internal Revenue Code (Code). Final regulations relating to the electronic delivery of applicable notices and participant elections were published in the **Federal Register** on October 20, 2006 (71 FR 61877) (2006 final regulations). The 2006 final regulations included new § 1.401(a)–21 setting forth standards for the use of an electronic medium to provide applicable notices to recipients or to make participant elections, amended Q&A–13 of § 54.4980F–1 by revising the rules for using an electronic method to provide a section 204(h) notice, and made certain conforming amendments.[1] Section 1.401(a)–21 reflects the applicable provisions of the Electronic Signatures in Global and National Commerce Act, Public Law 106–229, 114 Stat. 464 (2000) (E–SIGN), as it relates to the electronic delivery of applicable notices and participant elections. For an in-depth description of the provisions of E–SIGN, see the background section in the preamble of the 2006 final regulations.

B. Special Rules for Participant Elections

Section 1.401(a)–21(d) sets forth several special rules relating to the use of an electronic medium to make a participant election, which is defined in § 1.401(a)–21(e)(6) as any consent, election, request, agreement, or similar communication made by or from a participant, beneficiary, alternate payee, or an individual entitled to benefits under a retirement plan, employee benefit arrangement, or individual retirement plan. First, the person eligible to make a participant election must be effectively able to access the electronic medium used to make the participant election. Second, the electronic system used in making a participant election must be reasonably designed to preclude any person other than the appropriate person from making the participant election. Third, the electronic system must provide the person making the participant election with a reasonable opportunity to review, confirm, modify, or rescind the terms of the election before it becomes effective. Fourth, the person making the participant election must receive, within a reasonable time, confirmation of the effect of the election through either a written paper document or an electronic medium under a system that satisfies the applicable notice requirements under § 1.401(a)–21(b) or (c).

Spousal consent rules apply to plans that are subject to the qualified joint and survivor annuity (QJSA) and qualified preretirement survivor annuity (QPSA) requirements of section 417.[2] In general, these spousal consent rules require that a participant's spouse consent to the participant's election to take certain plan distributions or loans, and that such consent be witnessed by a plan representative or a notary public. See generally section 417(a)(2); § 1.401(a)–20, Q&A–8(b) and Q&A–24; and § 1.417(e)–1(b). Section 1.401(a)–21(d)(6)(i) provides that, in the case of a participant election that is required to be witnessed by a plan representative or a notary public (such as a spousal consent under section 417), the signature of the individual making the participant election must be witnessed in the physical presence of a plan representative or a notary public (physical presence requirement). Section 1.401(a)–21(d)(6)(ii) provides that, if the signature of an individual is witnessed in the physical presence of a notary public, an electronic notarization acknowledging the signature (in accordance with section 101(g) of E–SIGN,[3] and applicable State law for notaries public) will not be denied legal effect.

Section 1.401(a)–21(d)(6)(iii) provides that the Commissioner may provide in guidance published in the Internal Revenue Bulletin that the use of procedures under an electronic system is deemed to satisfy the physical presence requirement, but only if those procedures with respect to the electronic system provide the same safeguards for participant elections as are provided through the physical presence requirement.

C. Notices Issued in Response to COVID–19 Pandemic

During the Coronavirus Disease 2019 (COVID–19) pandemic,[4] the Treasury Department and the IRS received several requests from stakeholders to permit remote witnessing of spousal consents by a notary public or a plan representative over the internet using digital tools and live audio-video technologies (remote witnessing) for plan distributions and loans. These stakeholders stated that, due to social distancing requirements and other measures put into place in response to the COVID–19 pandemic, the physical presence requirement in § 1.401(a)–21(d)(6) made it difficult, if not impossible, for a participant to receive a plan distribution or loan for which spousal consent was required. In response to the COVID–19 pandemic and requests for relief from stakeholders, the Treasury Department and the IRS issued a notice granting temporary relief from the physical presence requirement for spousal consents and, in response to the continuing COVID–19 pandemic and additional requests for relief from stakeholders, three additional notices granting extensions of the temporary relief (together, the temporary relief notices).[5] The temporary relief notices granted relief for the period January 1, 2020, through December 31, 2022.

Under the temporary relief notices, in the case of a participant election witnessed by a notary public, an electronic system that uses remote witnessing is deemed to satisfy the physical presence requirement if the participant election is executed via live audio-video technology that otherwise satisfies the requirement for participant elections and is consistent with State law requirements that apply to the notary public.

In the case of a participant election witnessed by a plan representative, under the temporary relief notices, an electronic system that uses remote witnessing is deemed to satisfy the

[1] The 2006 final regulations made conforming amendments to §§ 1.72(p)–1, 1.132–9, 1.401(k)–3, 1.402(f)–1, 1.411(a)–11, 1.417(a)(3)–1, 1.7476–2, and 35.3405–1.

[2] In general, the spousal consent requirements under section 417 apply to a subset of qualified retirement plans, including defined benefit plans, money purchase pension plans, and defined contribution plans that (1) do not provide 100 percent death benefits for surviving spouses, (2) provide benefits in the form of a life annuity, or (3) are direct or indirect transferees of a defined benefit or money purchase pension plan. See section 401(a)(11)(B) and § 1.401(a)–20, Q&A–3. Section 205 of the Employee Retirement Income Security Act of 1974, as amended (ERISA), provides parallel annuity and spousal rights provisions, including spousal consent requirements. The IRS has interpretive authority over section 205 of ERISA pursuant to the Reorganization Plan No. 4 of 1978, 5 U.S.C. App.

[3] Section 101(g) of E–SIGN provides that ''[i]f a statute, regulation, or other rule of law requires a signature or record relating to a transaction in or affecting interstate or foreign commerce to be notarized, acknowledged, verified, or made under oath, that requirement is satisfied if the electronic signature of the person authorized to perform those acts, together with all other information required to be included by other applicable statute, regulation, or rule of law, is attached to or logically associated with the signature or record.''

[4] On March 13, 2020, the President determined that the COVID–19 pandemic was of sufficient severity and magnitude to warrant an emergency determination beginning March 1, 2020, under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5207.

[5] See Notice 2020–42, 2020–26 IRB 986; Notice 2021–03, 2021–2 IRB 316; Notice 2021–40, 2021–28 IRB 15; and Notice 2022–27, 2022–22 IRB 1151.

physical presence requirement if the electronic system uses live audio-video technology and satisfies the following requirements: (1) the individual signing the participant election must present a valid photo ID to the plan representative during the live audio-video conference, and may not merely transmit a copy of the photo ID prior to or after the witnessing; (2) the live audio-video conference must allow for direct interaction between the individual and the plan representative (for example, a pre-recorded video of the person signing is not sufficient); (3) the individual must transmit by fax or electronic means a legible copy of the signed document directly to the plan representative on the same date it was signed; and (4) after receiving the signed document, the plan representative must acknowledge that the signature has been witnessed by the plan representative in accordance with the requirements of the temporary relief notices and transmit the signed document, including the acknowledgement, back to the individual under a system that satisfies the applicable notice requirements under § 1.401(a)–21(c).

D. Comments Relating to Remote Witnessing of Spousal Consents

1. Solicitation of Public Comments

Several stakeholders requesting an extension of the temporary relief provided in Notice 2020–42 further requested that the relief be made permanent. In response, Notices 2021–03 and 2021–40 solicited comments relating to remote witnessing. Notice 2021–03 solicited comments on whether relief from the physical presence requirement should be made permanent and, if made permanent, what, if any, procedural safeguards would be necessary to reduce the risk of fraud, spousal coercion, or other abuse in the absence of a physical presence requirement. Notice 2021–03 also stated that any permanent modification to the physical presence requirement would be made through the regulatory process, giving stakeholders an opportunity to provide additional comments.

Notice 2021–40 solicited general and specific comments on whether permanent guidance modifying the physical presence requirement should be issued. Specifically, the Treasury Department and the IRS requested comments regarding: (1) how the temporary removal of the physical presence requirement for participant elections required to be witnessed by a plan representative or a notary public has affected costs and burdens for all parties (for example, participants, spouses, and plans) and whether there are costs and burdens associated with the physical presence requirement that support modifying the requirement on a permanent basis; (2) whether there is evidence that the temporary removal of the physical presence requirement has resulted in fraud, spousal coercion, or other abuse, and how, if the physical presence requirement is permanently modified, increased fraud, spousal coercion, or other abuse may be likely to result from that modification; (3) how participant elections are being witnessed, or are expected to be witnessed, as the COVID–19 pandemic abates (for example, whether the availability of in-person notarization has returned, or is expected to return, to pre-COVID–19 pandemic levels); (4) if guidance permanently modifying the physical presence requirement is issued, what procedures should be established to provide the same safeguards for participant elections as are provided through the physical presence requirement; and (5) if guidance permanently modifying the physical presence requirement is issued, whether the guidance should establish procedures for witnessing by plan representatives that are different from procedures for witnessing by notaries public.

2. Commenters Supporting Remote Witnessing

Commenters supporting remote witnessing for spousal consents made several arguments in support of adding remote witnessing as a permanent alternative to the physical presence requirement. Supporters argued that the remote witnessing process, in particular remote witnessing by a notary public, is easy to use, reduces the time it takes to process a distribution, and saves participants and beneficiaries both time and money.[6] For example, two commenters stated that remote witnessing by a notary public takes about 8 minutes on average. In addition, supporters argued that remote witnessing provides a necessary alternative for participants and spouses with mobility challenges, health concerns, and long commute times.

In response to concerns about potential fraud, supporters of remote witnessing for spousal consents argued that State notarization laws allowing remote witnessing have strict guidelines to help prevent fraudulent activity, including knowledge-based authentication and credential analysis. Supporters also noted that, during the period of remote witnessing permitted by the temporary relief notices, plans had not reported any evidence of fraud, spousal coercion, or other abuse.

In addressing whether additional safeguards should be added to the requirements for remote witnessing of spousal consents, supporters of remote witnessing generally argued that the safeguards provided in the temporary relief notices are adequate. They also pointed out that technological advances (such as real-time ID verification, electronic authentication standards, and digital recording and storage) have the potential to make the remote witnessing process more secure than the in-person witnessing process.

Some supporters of remote witnessing of spousal consents argued against establishing procedures for remote witnessing by a plan representative that differ from the procedures for a notary public. However, others argued that separate rules may be warranted because a plan representative (unlike a notary public) is not subject to any State oversight or mandated procedures for witnessing. One commenter suggested requiring that plan representatives use secure two-way live audio-video communication, record the audio-video communication, and store the audio-video recording.

Many supporters of remote witnessing of spousal consents supported a rule preventing a plan from requiring remote witnessing for spousal consents. They argued that a spouse should be able to choose to have a spousal consent witnessed in person, even if the plan permits remote witnessing.

Finally, one supporter of remote witnessing of spousal consents suggested clarification that the protections for participant elections made with an electronic medium set forth in § 1.401(a)–21(d) also apply to spousal elections made with an electronic medium. For example, the commenter suggested requiring that the system be designed to preclude anyone other than a spouse from giving consent and that a spouse be given a reasonable opportunity to review, confirm, modify, or rescind a spousal consent before it becomes effective.

[6] Another commenter addressed fees, stating that fees are imposed for both remote and in-person notarizations, are regulated by State law, and are generally equivalent. However, another commenter supporting remote witnessing argued that fees for remote witnessing by a notary public are generally higher than for in-person notarization, so that there is a cost associated with remote witnessing by a notary public. In addition, a commenter opposing remote witnessing argued that in-person notarization is usually free or has nominal fees, as compared to generally higher fees for remote witnessing by a notary public.

3. Commenters Opposing Remote Witnessing

Commenters opposing remote witnessing for spousal consents made several arguments in favor of retaining the physical presence requirement without modification. In particular, they argued that there is no longer a public health emergency justification for waiving the physical presence requirement, that the temporary relief notices were a temporary measure to address a national public health emergency, and that social distancing requirements and other measures have eased, so there is no longer a sufficient rationale for changing the physical presence requirement.

In addition, in response to statements by commenters that there has been no evidence of fraud during the period of the temporary relief granted under the temporary relief notices, opponents of remote witnessing for spousal consents argued that it usually takes many years for evidence of fraud to surface and that investigating and resolving allegations of fraud can take years. Opponents of remote witnessing also argued that a notary public or plan representative witnessing a spousal consent remotely, unlike a notary public or plan representative witnessing a spousal consent in-person, cannot check for signs of ID tampering or physically inspect ID security features intended to prevent forgeries. They further argued that knowledge-based authentication is not effective for a married couple because spouses are likely to know key facts about each other. With respect to detecting spousal coercion and pressure, opponents of remote witnessing of spousal consents argued that remote witnessing is inferior to in-person witnessing. For example, a commenter argued that a webcam's field of vision is narrow and cannot see individuals outside the field of vision who may be exerting undue influence on a spouse signing a consent. Opponents of remote witnessing for spousal consents noted that a conflict of interest may exist between spouses over the form and timing of retirement distributions and loans, so that a participant may put significant pressure on a spouse to waive spousal rights.

In addressing whether additional safeguards should be added to the requirements for remote witnessing of spousal consents in the temporary relief notices, opponents of remote witnessing for spousal consents argued that, if remote witnessing were permitted, the scope of the current safeguards in § 1.401(a)–21(d) should be clarified. For example, plans should be required to—(1) send to a spouse who provides spousal consent certain documents, such as a confirmation of the consent (separate from documents sent to a participant) in a manner that ensures actual receipt, (2) make a visual recording of the consent process, and (3) retain all critical plan records with respect to a participant election or spousal consent. They also suggested that the Treasury Department and the IRS impose additional protections, such as requiring that plans allow spouses to choose to have a spousal consent witnessed in person and providing guidance on post-consent confirmations.

Explanation of Provisions

A. Overview

The proposed regulation modifies the participant election rules in § 1.401(a)–21(d) in two significant ways. First, the proposed regulation sets forth alternatives to the physical presence requirement in § 1.401(a)–21(d)(6) for the witnessing of a spousal consent. These alternatives permit a spousal consent to be witnessed remotely by a notary public or plan representative, but only if certain conditions are satisfied. Second, the proposed regulation clarifies that the protections in § 1.401(a)–21(d) that apply to participant elections made using an electronic medium also apply to spousal consents made using an electronic medium. As part of that clarification, the proposed regulation modifies existing *Example 3* in § 1.401(a)–21(f), which illustrates the electronic transmission of a participant election for a plan loan and related notarized spousal consent, to clarify that the protections in § 1.401(a)–21(d) apply to the spousal consent. The proposed regulation also makes other minor conforming changes.

B. Remote Witnessing of Spousal Consents

Section 1.401(a)–21(d)(6)(i) of the proposed regulation generally retains the physical presence requirement set forth in the existing regulation. The physical presence requirement provides that, in the case of a spousal consent that is required to be witnessed by a notary public or a plan representative (such as a spousal consent under section 417), the signature of the person signing the spousal consent must be witnessed in the physical presence of a notary public or plan representative.

However, the proposed regulation also provides two alternatives to the physical presence requirement for spousal consents. These two alternatives are similar to the alternatives in the temporary relief notices issued in response to the COVID–19 pandemic. For more information about the temporary relief notices, see Part C in the Background section of this preamble, under the heading *Notices Issued in Response to COVID–19 Pandemic.*

1. Remote Witnessing by Notary Public

Proposed § 1.401(a)–21(d)(6)(ii)(A) sets forth remote witnessing rules for spousal consents witnessed by a notary public. The proposed regulation provides that, as an alternative to satisfying the physical presence requirement, a plan may accept a spousal consent witnessed remotely by a notary public, provided that (1) the signature of the person signing the spousal consent is witnessed by the notary public using live audio-video technology, (2) the requirements in § 1.401(a)–21(d) for spousal consents are satisfied, and (3) the remote witnessing is consistent with State law requirements that apply to the notary public. This alternative is substantially similar to the temporary relief from the physical presence requirement provided in the temporary relief notices for remote witnessing by a notary public.

Section 1.401(a)–21(d)(6)(ii)(A)(*2*) of the proposed regulation requires that a plan that accepts spousal consents witnessed remotely by a notary public, as described in proposed § 1.401(a)–21(d)(6)(ii)(A)(*1*), must also accept spousal consents witnessed in the physical presence of a notary public. Both supporters and opponents of remote witnessing suggested this requirement (which was also included in the temporary relief notices providing extensions).

2. Remote Witnessing by Plan Representative

The proposed regulation also sets forth remote witnessing rules for spousal consents witnessed by a plan representative. Proposed § 1.401(a)–21(d)(6)(ii)(B) provides that, as an alternative to satisfying the physical presence requirement, a plan may accept a spousal consent witnessed remotely by a plan representative, provided that (1) the signature of the person signing the spousal consent is witnessed by a plan representative using live audio-video technology, (2) the requirements in § 1.401(a)–21(d) for spousal consents are satisfied, and (3) the remote witnessing satisfies the following five requirements described in proposed § 1.401(a)–21(d)(6)(ii)(B)(*1*) through (*5*):

First, the person signing the spousal consent must present a valid photo ID

to the plan representative during the live audio-video conference. For example, the person signing the spousal consent may not merely transmit a copy of the photo ID to the plan representative prior to or after the witnessing. Second, the live audio-video conference must allow for direct interaction between the person signing the spousal consent and the plan representative. A pre-recorded video of the person signing the spousal consent does not satisfy this requirement. Third, the person signing the spousal consent must transmit by electronic means a legible copy of the signed document directly to the plan representative on the same date that the spousal consent is signed. Fourth, after receiving the signed spousal consent, the plan representative must acknowledge that the signature has been witnessed by the plan representative and transmit the signed spousal consent, including the acknowledgement, back to the person signing the spousal consent under a system that satisfies the applicable notice requirements in § 1.401(a)–21(c). Fifth, a recording of the audio-video conference during which the spousal consent was signed remotely must be made by the plan representative and, consistent with § 1.401(a)–21(a)(3)(ii),[7] must be retained by the plan in accordance with section 6001 (which provides rules relating to the maintenance of records, statements, and special returns). The first four requirements are similar to the requirements in the temporary relief notices, and the fifth requirement is an additional requirement suggested by commenters both supporting and opposing remote witnessing.

Section 1.401(a)–21(d)(6)(iii) of the proposed regulation continues to include rules that are in the existing regulation relating to electronic notarization. In particular, the proposed regulation provides that, if the physical presence requirements (or the alternative remote witnessing requirements) are satisfied, an electronic notarization acknowledging a signature (in accordance with section 101(g) of E–SIGN and State law applicable to a notary public) will not be denied legal effect.

C. Clarifying That Existing Special Rules for Participant Elections Apply to Spousal Consents

The proposed regulation clarifies that the five special rules regarding use of an electronic medium in existing § 1.401(a)–21(d) apply to spousal consents. First, the electronic medium under an electronic system used to make a participant election or spousal consent must be a medium that the person who is eligible to make the election or consent is effectively able to access. Second, the electronic system used in making a participant election or spousal consent must be reasonably designed to preclude any person other than the appropriate person from making the participant election or spousal consent. Whether this condition is satisfied is based on facts and circumstances, including whether the participant election or spousal consent has the potential for a conflict of interest between the persons involved in the election or consent. Third, the electronic system used in making a participant election or spousal consent must provide the person making the election or consent with a reasonable opportunity to review, confirm, modify, or rescind the terms of the election or consent before it becomes effective. Fourth, the person making the participant election or spousal consent must receive, within a reasonable time, a confirmation of the effect of the election or consent through either a written paper document or an electronic medium under a system that satisfies the requirements of § 1.401(a)–21(b) or (c) (as if the confirmation were an applicable notice). Fifth, for spousal consents required to be witnessed by a plan representative or a notary public, the spousal consent must be witnessed in accordance with proposed § 1.401(a)–21(d)(6).

The requirements regarding use of an electronic medium in existing § 1.401(a)–21(d) apply to participant elections, and that term is defined broadly in § 1.401(a)–21(e)(6) to include any consent, election, request, agreement, or similar communication made by or from a participant, beneficiary, alternative payee, or an individual entitled to benefits. Under this broad definition, structured for simplicity, a participant election includes a spousal consent. However, in responding to the request for comments on whether to add spousal protections, commenters both supporting and opposing remote witnessing suggested explicitly applying the safeguards in § 1.401(a)–21(d) to spousal consents, including the safeguard that confirmation of the spousal consent be provided to the spouse. Although these safeguards already apply to spousal consents under existing § 1.401(a)–21(d), in response to these comments, the Treasury Department and the IRS believe that it is helpful to clarify and emphasize that these protections apply to spousal consents.

Accordingly, the proposed regulation includes three clarifications with respect to spousal consents. First, the proposed regulation provides a separate definition for spousal consent. Section 1.401(a)–21(e)(8) of the proposed regulation defines a spousal consent as a written consent signed by a participant's spouse that meets the requirements of section 417(a)(2)(A). Second, as described in the preceding paragraph, amendments are made in § 1.401(a)–21(d) to clarify that each special rule regarding use of an electronic medium for participant elections applies to spousal consents. Third, the proposed regulation modifies *Example 3* in § 1.401(a)–21(f) to clarify how the protections in § 1.401(a)–21(d) apply to spousal consents. *Example 3* in existing § 1.401(a)–21(f) illustrates the application of § 1.401(a)–21(d) to a participant election for a plan loan and a related notarized spousal consent. The example describes how a plan can satisfy the requirements in § 1.401(a)–21(d)(4) and (5), by providing the participant an opportunity to review the election and a confirmation of the election. However, the example is silent on how those requirements apply to the participant's spouse with respect to the spousal consent. The modified example addresses the application of those requirements with respect to the spousal consent.

The protections in § 1.401(a)–21(d) (as clarified by the proposed regulation), including the ability for a spouse to review and rescind a spousal consent, provide spouses using an electronic medium to sign a spousal consent (including the use of remote witnessing, whether by a notary public or a plan representative) with protections that are not provided to spouses who do not sign spousal consents using an electronic medium. Section 1.401(a)–20, Q&A–30, provides that, in general, a plan may preclude a spouse from revoking consent once it has been given, but that a participant must always be allowed to change an election during the applicable election period. However, as provided in existing § 1.401(a)–21(d) and clarified in this proposed regulation, § 1.401(a)–21(d)(4) requires a plan to give the spouse, for a spousal consent made

[7] Section 1.401(a)–21(a)(3)(ii) provides that the rules in the regulations do not alter the otherwise applicable requirements under the Code, such as the requirements relating to tax reporting, tax records, or substantiation of expenses, and refers to section 6001 for rules relating to the maintenance of records, statements, and special returns. It also refers to section 101(e) of E–SIGN, which provides that if an electronic record of an applicable notice or a participant election is not maintained in a form that is capable of being retained and accurately reproduced for later reference, then the legal effect, validity, or enforceability of the electronic record may be denied.

using an electronic medium that is subject to § 1.401(a)–21(d), a reasonable opportunity to review, confirm, modify, or rescind the terms of the spousal consent before it becomes effective.

D. Balancing of Interests

The Treasury Department and the IRS understand that there are strongly held points of view both in support of and in opposition to remote witnessing. As previously discussed in Part D of the Background section of this preamble, under the heading *Comments Relating to Remote Witnessing of Spousal Consents,* commenters supporting remote witnessing argued that remote witnessing provides a valuable option to participants and spouses (including those with limited mobility), by offering an essential convenience during a period in which more people rely on technological advances for their financial transactions. On the other hand, commenters opposing remote witnessing argued that spousal pension rights particularly affect retirement security for women and that any decision to waive those rights should be afforded maximum safeguards.[8]

In drafting the proposed regulation, the Treasury Department and the IRS have worked to strike a balance between the competing interests identified by commenters by offering remote witnessing as an option to those who elect to use it, but still requiring conditions on remote witnessing that are either similar to or more protective than the conditions in the temporary relief notices. Many of these conditions, including prohibiting a plan from requiring remote witnessing of spousal consents by a notary public and requiring that a plan representative record the audio-video conference during which a spousal consent is signed remotely (and retain the recording), were suggested both by commenters supporting and by commenters opposing remote witnessing.

In addition, the Treasury Department and the IRS believe that, by clarifying that the protections in § 1.401(a)–21(d) apply both to participant elections and spousal consents, the proposed regulation emphasizes several essential protections for a spouse using an electronic medium to sign a spousal consent. Those protections include requiring a plan to send a spouse confirmation of a spousal consent separate from the documents sent to the participant making the election and giving the spouse the ability to review and rescind the spousal consent.

Proposed Applicability Date

This regulation is proposed to apply beginning on the date that is six months after publication of the Treasury decision adopting these rules as a final regulation in the **Federal Register**. Prior to the applicability date of the final regulation, taxpayers may rely on the rules set forth in this notice of proposed rulemaking.

Availability of IRS Documents

For copies of recently issued revenue procedures, revenue rulings, notices and other guidance published in the Internal Revenue Bulletin, please visit the IRS website at *www.irs.gov* or contact the Superintendent of Documents, U.S. Government Publishing Office, Washington, DC 20402.

Special Analyses

I. Regulatory Impact Analysis

This proposed regulation is not subject to review under section 6(b) of Executive Order 12866 pursuant to the Memorandum of Agreement (April 11, 2018) between the Treasury Department and the Office of Management and Budget regarding review of tax regulations.

II. Paperwork Reduction Act

The collections of information referenced in this proposed regulation were previously reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) under control number 1545–1632.

Comments on the collection of information and the accuracy of estimated average annual burden and suggestions for reducing this burden should be sent to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, SE:W:CAR:MP:T:T:SP; Washington, DC 20224. Comments on the collection of information should be received by March 30, 2023.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the Office of Management and Budget.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

III. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, it is hereby certified that this regulation will not have a significant economic impact on a substantial number of retirement plans, or their administrators and sponsors. This certification is based on several factors. First, the provisions of the proposed regulation that permit the remote witnessing of spousal consents are voluntary; plans are not required to permit remote witnessing, and spouses are not required to use remote witnessing even if a plan sponsor chooses to make remote witnessing available as an option under its plan. Accordingly, it is anticipated that a sponsor will permit remote witnessing under its plan only if the sponsor concludes that remote witnessing is more convenient and less burdensome for the plan and its participants and beneficiaries. Similarly, it is anticipated that a spouse in a plan that permits remote witnessing will use remote witnessing only if the spouse concludes that remote witnessing is more convenient and less burdensome. Further, the requirements for remote witnessing in the proposed regulation are substantially similar to requirements already imposed under the temporary relief notices, and the new requirements imposed under the proposed regulation with respect to witnessing by a plan representative (that is, that the plan must record the audio-video conference and retain the recording) were suggested by commenters (including commenters supporting remote witnessing).

Second, the provisions of the proposed regulation relating to the application of the requirements in § 1.401(a)–21(d) to spousal consents are merely clarifications of existing regulations. As previously stated, under existing § 1.401(a)–21, spousal consents are a subset of participant elections, so that the requirements in § 1.401(a)–21(d) apply to spousal consents. Thus, this proposed regulation does not impose new compliance burdens and is not expected to result in economically meaningful changes in behavior related to existing § 1.401(a)–21.

For the reasons stated, a regulatory flexibility analysis under the Regulatory

[8] The Treasury Department and the IRS have provided sample language, in Notice 97–10, 1997–2 IRB 41, which is designed to make it easier for spouses of participants to understand their rights to survivor annuities under qualified plans. The language is designed to assist plan administrators in preparing spousal consent forms that meet the statutory requirements.

Flexibility Act is not required. The Treasury Department and the IRS invite comments on the impact of this regulation on small entities. Pursuant to section 7805(f) of the Code, this notice of proposed rulemaking has been submitted to the Chief Counsel of Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Public Hearing

Before these proposed amendments to the regulation are adopted as a final regulation, consideration will be given to comments that are submitted timely to the IRS as prescribed in the preamble under the **ADDRESSES** section. The Treasury Department and the IRS request comments on all aspects of the proposed regulation. Any electronic comments and paper comments submitted will be made available at *www.regulations.gov* or upon request.

A telephonic public hearing has been scheduled for April 11, 2023, beginning at 10 a.m. ET. The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments by telephone at the public hearing must submit electronic or written comments and an outline of the topics to be addressed and the time to be devoted to each topic by March 30, 2023 as prescribed in the preamble under the **ADDRESSES** section. For those requesting to speak during the public hearing, send an outline of topic submissions electronically via the Federal eRulemaking Portal at *www.regulations.gov* (indicate IRS and REG–114666–22).

Individuals who want to testify (by telephone) at the public hearing must send an email to *publichearings@irs.gov* to receive the telephone number and access code for the public hearing. The subject line of the email must contain the regulation number REG–114666–22 and the word TESTIFY. For example, the subject line may say: Request to TESTIFY at Hearing for REG–114666–22. The email should include a copy of the speaker's public comments and outline of topics. Individuals who want to attend (by telephone) the public hearing must also send an email to *publichearings@irs.gov* to receive the telephone number and access code for the public hearing. The subject line of the email must contain the regulation number REG–114666–22 and the word ATTEND. For example, the subject line may say: Request to ATTEND Hearing for REG–114666–22. To request special assistance during the public hearing, contact the Publications and Regulations Branch of the Office of Associate Chief Counsel (Procedure and Administration) by sending an email to *publichearings@irs.gov* (preferred) or by telephone at (202) 317–5177 (not a toll-free number).

A period of 10 minutes will be allocated to each person for making comments. After the deadline for receiving outlines has passed, the IRS will prepare an agenda containing the schedule of speakers. Copies of the agenda will be made available at *www.regulations.gov,* search IRS and REG–114666–22. Copies of the agenda will also be available by emailing a request to *publichearings@irs.gov.* Please put ''REG–114666–22 Agenda Request'' in the subject line of the email.

Drafting Information

The principal authors of this regulation are Arslan Malik and Pamela Kinard, Office of Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes (EEE)). However, other personnel from the IRS and the Treasury Department participated in the development of this regulation.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, the Treasury Department and the IRS are proposing to amend 26 CFR part 1 as follows:

PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

■ **Par. 2.** Section 1.401(a)–21 is amended by:
■ 1. Revising the section heading;
■ 2. Revising the first sentence of paragraph (a)(1)(i) and the heading of paragraph (a)(1)(ii);
■ 3. Revising paragraphs (a)(1)(ii)(A) and (C);
■ 4. Revising paragraphs (a)(2)(i) and (ii);
■ 5. Revising the heading of paragraph (a)(2)(iii);
■ 6. Revising the last sentence of paragraph (a)(3)(i) and revising paragraph (a)(3)(ii);
■ 7. Revising the heading and first sentence of paragraph (a)(4);
■ 8. Revising paragraph (d);
■ 9. Revising paragraphs (e)(4) and (6) and adding paragraph (e)(8);
■ 10. In paragraph (f), designating *Examples 1* through *6* as paragraphs (f)(1) through (6), respectively;
■ 11. Revising newly designated paragraph (f)(3);
■ 12. Revising paragraph (g).

The revisions and addition read as follows:

§ 1.401(a)–21 Rules relating to the use of an electronic medium to provide applicable notices and to make participant elections and spousal consents.

(a) * * *

(1) * * *

(i) * * * This section provides rules relating to the use of an electronic medium to provide applicable notices and to make participant elections and spousal consents with respect to retirement plans, employee benefit arrangements, and individual retirement plans described in paragraph (a)(2) of this section. * * *

(ii) *Notices, elections, and consents required to be in writing or in written form*—(A) *In general.* The rules of this section must be satisfied for an electronic medium to be used to provide an applicable notice or make a participant election or spousal consent if the notice, election, or consent is required to be in writing or in written form under the Internal Revenue Code, Department of Treasury regulations, or other guidance published in the Internal Revenue Bulletin by the Commissioner.

* * * * *

(C) *Rules relating to participant elections and spousal consents.* A participant election or a spousal consent that is made using an electronic medium is treated as being provided in writing or in written form if the requirements of paragraphs (a)(5) and (d) of this section are satisfied.

* * * * *

(2) * * *

(i) *Notices, elections, or consents under retirement plans.* The rules of this section apply to any applicable notice, participant election, or spousal consent relating to the following retirement plans: a qualified retirement plan under sections 401(a) or 403(a); a section 403(b) plan; a simplified employee pension (SEP) under section 408(k); a simple retirement plan under section 408(p); or an eligible governmental plan under section 457(b).

(ii) *Notices or elections under other employee benefit arrangements.* The rules of this section also apply to any applicable notice or participant election relating to the following employee benefit arrangements: an accident and health plan or arrangement under sections 104(a)(3) and 105; a cafeteria plan under section 125; an educational assistance program under section 127; a qualified transportation fringe program under section 132; an Archer MSA under section 220; or a health savings account under section 223.

(iii) *Notices or elections under individual retirement plans.* * * *

(3) * * *

(i) * * * The rules in this section also do not apply to section 411(a)(3)(B) of the Code (relating to suspension of benefits), section 4980B(f)(6) (relating to an individual's COBRA rights), or any other Code provision over which the Department of Labor or Pension Benefit Guaranty Corporation has similar interpretative authority.

(ii) *Recordkeeping and other requirements.* The rules in this section apply only with respect to applicable notices, participant elections, and spousal consents relating to a person's rights under a retirement plan, an employee benefit arrangement, or an individual retirement plan. Thus, the rules in this section do not alter the otherwise applicable requirements under the Code, such as the requirements relating to tax reporting, tax records, or substantiation of expenses. See section 6001 for rules relating to the maintenance of records, statements, and special returns. See also section 101(e) of E–SIGN, which provides that if an electronic record of an applicable notice, a participant election, or a spousal consent is not maintained in a form that is capable of being retained and accurately reproduced for later reference, then the legal effect, validity, or enforceability of the electronic record may be denied.

(4) *General requirements related to applicable notices, participant elections, and spousal consents.* The rules of this section supplement the general requirements related to each applicable notice, participant election, and spousal consent. * * *

* * * * *

(d) *Special rules for participant elections and spousal consents*—(1) *In general.* This paragraph (d) is satisfied for participant elections or spousal consents if the conditions described in paragraphs (d)(2) through (6) of this section are satisfied.

(2) *Effective ability to access.* The electronic medium under an electronic system used to make a participant election or spousal consent must be a medium that the person who is eligible to make the election or consent is effectively able to access. If the appropriate person is not effectively able to access the electronic medium for making the election or consent, the election or consent will not be treated as made available to that person. Thus, for example, the election will not be treated as made available for purposes of the rules under section 401(a)(4).

(3) *Authentication.* The electronic system used in making a participant election or spousal consent must be reasonably designed to preclude any person other than the appropriate person from making the election or consent. Whether this condition is satisfied is based on facts and circumstances, including whether the election or consent has the potential for a conflict of interest between the persons involved in the election or consent.

(4) *Opportunity to review.* The electronic system used in making a participant election or spousal consent must provide the person making the election or consent with a reasonable opportunity to review, confirm, modify, or rescind the terms of the election or consent before the election or consent becomes effective.

(5) *Confirmation of action.* The person making the participant election or spousal consent must receive, within a reasonable time, a confirmation of the effect of the election or the consent under the terms of the plan or arrangement through either a written paper document or an electronic medium under a system that satisfies the requirements of either paragraph (b) or (c) of this section (as if the confirmation were an applicable notice).

(6) *Spousal consents required under the Code to be witnessed by a notary public or a plan representative*—(i) *Witnessing of spousal consent in physical presence of notary public or plan representative.* Except as provided in paragraph (d)(6)(ii) of this section, in the case of a spousal consent that is required to be witnessed by a notary public or a plan representative (such as a spousal consent under section 417), the signature of the person signing the consent must be witnessed in the physical presence of a notary public or a plan representative.

(ii) *Alternative to witnessing of spousal consent in physical presence of notary public or plan representative*—(A) *Remote witnessing of spousal consent by notary public*—(*1*) *In general.* As an alternative to witnessing of a spousal consent in the physical presence of a notary public described in paragraph (d)(6)(i) of this section, a plan may accept a consent witnessed remotely by a notary public if the signature of the person signing the consent is witnessed by the notary public using live audio-video technology, the requirements of paragraph (d) of this section for consents are satisfied, and the remote witnessing is consistent with State law requirements that apply to the notary public.

(*2*) *In-person notarization must be accepted by plan.* A plan that accepts spousal consents witnessed remotely by a notary public must also accept consents witnessed in the physical presence of a notary public.

(B) *Remote witnessing of spousal consent by plan representative.* As an alternative to witnessing of a spousal consent in the physical presence of a plan representative described in paragraph (d)(6)(i) of this section, a plan may accept a consent witnessed remotely by a plan representative if the signature of the person signing the consent is witnessed by the plan representative using live audio-video technology, the requirements of paragraph (d) of this section are satisfied, and the additional requirements described in paragraphs (d)(6)(ii)(B)(*1*) through (*5*) of this section are satisfied.

(*1*) *Presentation of valid photo ID.* The person signing the spousal consent must present a valid photo ID to the plan representative during the live audio-video conference (for example, the person signing the consent may not merely transmit a copy of the photo ID to the plan representative prior to or after the witnessing).

(*2*) *Direct interaction.* The live audio-video conference must allow for direct interaction between the person signing the spousal consent and the plan representative (for example, a pre-recorded video of the person signing the consent is not sufficient).

(*3*) *Same-day document transmission.* The person signing the spousal consent must transmit by electronic means a legible copy of the signed document directly to the plan representative on the same date that the document is signed.

(*4*) *Plan representative acknowledgement.* After receiving the signed document, the plan representative must acknowledge that the signature has been witnessed by the plan representative in accordance with paragraph (d)(6)(ii)(B) of this section and transmit the signed document, including the acknowledgement, back to the person signing the spousal consent under a system that satisfies the applicable notice requirements in paragraph (c) of this section.

(*5*) *Recording and retention of audio-video conference.* A recording of the audio-video conference during which the spousal consent was signed remotely must be made by the plan representative and, consistent with paragraph (a)(3)(ii) of this section, must be retained by the plan in accordance with section 6001.

(iii) *Electronic notarization permitted.* If the requirements of paragraph (d)(6)(i) or (d)(6)(ii)(A) of this section are

satisfied, an electronic notarization acknowledging a signature (in accordance with section 101(g) of E–SIGN and State law applicable to a notary public) will not be denied legal effect.

(e) * * *

(4) *Electronic record.* The term *electronic record* means an applicable notice, a participant election, or a spousal consent that is created, generated, sent, communicated, received, or stored by electronic media.

* * * * *

(6) *Participant election.* The term *participant election* includes any election, request, agreement, or similar communication made by or from a participant, beneficiary, alternate payee, or person entitled to benefits under a retirement plan, employee benefit arrangement, or individual retirement plan as described in paragraph (a)(2) of this section.

* * * * *

(8) *Spousal consent.* The term *spousal consent* means a written consent signed by a participant's spouse that meets the requirements of section 417(a)(2)(A).

(f) * * *

* * * * *

(3) *Example 3.* (i) *Facts involving participant election for plan loan and related notarized spousal consent.* Plan C, a qualified money purchase pension plan, permits a married participant to request a plan loan through Plan C's website with the notarized consent of the spouse. Under Plan C's system for requesting a plan loan, a participant must enter the participant's account number and personal identification number (PIN) (in order to preclude any person other than the participant from making the election) and the participant's email address. The information entered by the participant must match the information in Plan C's records in order for the transaction to proceed. Participant M, a married participant, is effectively able to access the website available to apply for a plan loan. Participant M completes the loan documents on Plan C's website.

(A) After receiving the completed loan documents, Plan C notifies Participant M that Participant M's spouse must sign a spousal consent for the plan loan that is witnessed by a notary public or plan representative. The spousal consent form includes sections for the signature, email address, and mailing address of Participant M's spouse. Participant M's spouse signs the spousal consent for the plan loan, and the signature is witnessed in the physical presence of a notary public. Participant M's spouse provides the notarized spousal consent to Participant M, and Participant M scans the notarized spousal consent and uploads it to Plan C's website.

(B) After Plan C receives the spousal consent, Plan C sends an email to Participant M with attached loan documents, giving Participant M a reasonable period of time to review and confirm the loan documents and to determine whether the plan loan should be modified (such as editing the account number or decreasing the loan amount) or rescinded. Using the email address provided on the spousal consent form, Plan C also sends an email to Participant M's spouse that attaches the signed spousal consent and gives Participant M's spouse a specified reasonable period of time to review and confirm the spousal consent and to determine whether the spousal consent should be modified or rescinded. The email also notifies Participant M's spouse that Participant M's spouse may request a written paper copy of the signed spousal consent and that, if Participant M's spouse requests a written paper copy of the signed spousal consent, it will be provided at no extra charge.

(C) Participant M makes no changes to the loan documents, and Participant M's spouse makes no changes to the spousal consent. After Plan C processes the loan documents, including the notarized spousal consent, Plan C notifies Participant M that the loan documents have been processed. In addition, the notice provides that Participant M may request a written paper copy of the loan documents and that, if Participant M requests a written paper copy of the loan documents, it will be provided at no charge. Plan C retains an electronic copy of the loan documents, including the notarized spousal consent, in a form that is capable of being retained and accurately reproduced for later reference by all parties.

(ii) *Conclusion.* In this paragraph (f)(3) (*Example 3*), the electronic transmission of the participant election for a plan loan and related notarized spousal consent satisfies the requirements of paragraphs (a), (c), and (d) of this section.

* * * * *

(g) *Applicability date*—(1) *In general.* Except as otherwise provided in paragraph (g)(2) of this section, the rules provided in this section apply to applicable notices provided and to participant elections and spousal consents made on or after (the date that is six months after the final regulation is published in the **Federal Register**).

(2) *Special applicability date rules for periods before the general applicability date.* Section 1.401(a)–21, as it appeared in the April 1, 2022, edition of 26 CFR part 1, applies for periods before the general applicability date in paragraph (g)(1) of this section.

Melanie R. Krause,

Acting Deputy Commissioner for Services and Enforcement.

[FR Doc. 2022–28327 Filed 12–29–22; 8:45 am]

BILLING CODE 4830–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2018–0841; FRL–10489–01–R5]

Air Plan Approval; Illinois; Alton Township 2010 SO_2 Attainment Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve the State Implementation Plan (SIP) revision which Illinois submitted to EPA on December 31, 2018, for attaining the 2010 sulfur dioxide (SO_2) primary national ambient air quality standard (NAAQS) for the Alton Township nonattainment area in Madison County. This plan (herein called a ''nonattainment plan'') includes Illinois' attainment demonstration and other elements required under the Clean Air Act (CAA), including the requirement for meeting reasonable further progress (RFP) toward attainment of the NAAQS, reasonably available control measures and reasonably available control technology (RACM/RACT), base-year and projection-year emission inventories, enforceable emission limitations and control measures, nonattainment new source review (NNSR), and contingency measures. EPA is proposing to approve Illinois' submission as a SIP revision for attaining the 2010 primary SO_2 NAAQS in the Alton township nonattainment area, finding that Illinois has adequately demonstrated that the plan provisions provide for attainment of NAAQS in the nonattainment area and that the plan meets the other applicable requirements under the CAA.

DATES: Comments must be received on or before January 30, 2023.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2018–0841 at *https://www.regulations.gov,* or via email to *arra.sarah@epa.gov.* For comments submitted at *Regulations.gov*, follow the