of yogurt, while maintaining its basic nature and essential characteristics.

This amendment is consistent with IDFA's proposed modification to the maximum pH option. Therefore, we are denying IDFA's request for a hearing with respect to the maximum pH option under § 12.24(b)(1) because there is not a genuine and substantial issue of fact for resolution at a hearing.

B. Denial of Request for a Hearing on the Minimum Titratable Acidity Option

IDFA objected to the minimum titratable acidity of 0.7 percent and requested that we modify the 2021 final rule to provide for a minimum titratable acidity of 0.6 percent. IDFA explained that a minimum titratable acidity of 0.6 percent is necessary to produce certain low calorie yogurt products that meet consumer expectations of a delicate and less tart yogurt taste that is not too acidic or sour. IDFA stated that if a titratable acidity requirement of 0.7 percent is imposed, some manufacturers may need to adjust formulations and add sugars to counteract the acidity and deliver a product that meets consumer expectations and preferences. IDFA emphasized that a minimum titratable acidity of 0.6 percent would provide manufacturers with needed flexibility.

Because we are modifying the maximum pH option consistent with the pH specifications in the PMO, which States have adopted, manufacturers are already required to comply with the maximum pH option. Therefore, the minimum titratable acidity option in the 2021 final rule, whether set at 0.7 percent or 0.6 percent, is superfluous and would not provide flexibility to manufacturers. So long as manufacturers comply with the maximum pH option, they may manufacture yogurt with a titratable acidity of 0.6 percent and can accommodate consumer expectations and preferences without reformulating their products. We note that the maximum pH option we are finalizing has been in effect in States for several years and, by itself, appears sufficient to ensure the safety of yogurt products. With the elimination of the titratable acidity option, we are also removing § 131.200(e)(1)(iii) *Methods of analysis, Titratable acidity* and the corresponding method incorporated by reference in § 131.200(i)(1)(i).

We are denying IDFA's request for a hearing on whether a minimum titratable acidity requirement of 0.7 percent is in the interest of consumers and necessary to maintaining the basic nature and essential characteristics of yogurt. Given our modification to the maximum pH option, a minimum titratable acidity option is unnecessary, and we do not believe there is a genuine and substantial issue of fact for resolution at a hearing (§ 12.24(b)(1)).

III. Conclusions

For the reasons explained above, we are denying IDFA's request for a hearing with respect to both the maximum pH option and the minimum titratable acidity option under § 12.24(b)(1). We are modifying the acidity requirement in § 131.200(a) in the 2021 final rule to eliminate the minimum titratable acidity option and require that yogurt have a pH of 4.6 or lower measured on the finished product within 24 hours after filling.

This final order is being issued after following the process provided under § 12.24(d). Objections to or requests for hearing on the modification and revocation may be submitted under 21 CFR 12.20 through 12.22 in accordance with 21 CFR 12.26. The stay of effectiveness with respect to the acidity requirement is lifted upon publication of this final order in the **Federal Register**.

IV. Reference

The following reference is on display at the Dockets Management Staff (see **ADDRESSES**) and is available for viewing by interested persons between 9 a.m. and 4 p.m., Monday through Friday; it is also available electronically at *https://www.regulations.gov.* FDA has verified the website addresses, as of the date this document publishes in the **Federal Register**, but websites are subject to change over time.

1. U.S. Department of Health and Human Services, Public Health Service, Food and Drug Administration. Grade ''A'' Pasteurized Milk Ordinance. 2019. Available at: *https://ncims.org/wp-content/uploads/2020/07/2019-PMO.pdf* (last accessed February 6, 2023).

List of Subjects in 21 CFR Part 131

Cream, Food grades and standards, Milk, Yogurt.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 131 is amended as follows:

PART 131—MILK AND CREAM

■ 1. The authority citation for part 131 continues to read as follows:

Authority: 21 U.S.C. 321, 341, 343, 348, 371, 379e.

■ 2. In § 131.200:

■ a. Revise the fourth sentence of paragraph (a);

■ b. Remove paragraphs (e)(1)(iii) and (i)(1)(i); and

■ c. Redesignate paragraphs (i)(1)(ii) and (iii) as paragraphs (i)(1)(i) and (ii).

The revision reads as follows:

§ 131.200 Yogurt.

(a) * * * Yogurt contains not less than 3.25 percent milkfat, except as provided for in paragraph (g) of this section, and not less than 8.25 percent milk solids not fat and has a pH of 4.6 or lower measured on the finished product within 24 hours after filling. * * *

* * * * *

Dated: April 6, 2023.

Robert M. Califf,

Commissioner of Food and Drugs.

[FR Doc. 2023–07723 Filed 4–13–23; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management

30 CFR Part 553

[Docket ID: BOEM–2023–0002]

RIN 1010–AE18

Oil Spill Financial Responsibility Adjustment of the Limit of Liability for Offshore Facilities

AGENCY: Bureau of Ocean Energy Management, Interior.

ACTION: Final rule.

SUMMARY: The Bureau of Ocean Energy Management issues this final rule to adjust the offshore facility limit of liability for damages under the Oil Pollution Act of 1990 (OPA) to reflect the increase in the Consumer Price Index (CPI) since 2016. This rule increases the OPA offshore facility limit of liability for damages from $137,659,500 to $167,806,900. In addition to damages, responsible parties continue to be liable for all removal costs associated with any oil spill or discharge.

DATES: This rule is effective on May 15, 2023.

FOR FURTHER INFORMATION CONTACT: Questions regarding the inflation adjustment methodology or amount should be directed to Martin Heinze, Economics Division, BOEM, at *martin.heinze@boem.gov* or at 703–787–1010. Questions regarding the timing of this adjustment or the applicability of the regulations should be directed to Anna Atkinson, Office of Regulations, BOEM, at *anna.atkinson@boem.gov* or at (703) 787–1025.

SUPPLEMENTARY INFORMATION:

I. Background and Purpose
II. Calculation of the 2022 Adjustment
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A. Statutes
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B. Executive Orders (E.O.).
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2. Regulatory Planning and Review (E.O. 12866); Improving Regulation and Regulatory Review (E.O. 13563)
3. Civil Justice Reform (E.O. 12988)
4. Federalism (E.O. 13132)
5. Consultation and Coordination With Indian Tribal Governments (E.O. 13175)
6. Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use (E.O. 13211)

I. Background and Purpose

The OPA established a comprehensive regime for addressing the consequences of oil spills, ranging from spill response to compensation for damages to injured parties. Under title I of the OPA, the responsible parties are liable for the removal costs and damages that result from the discharge or substantial threat of discharge of oil into navigable waters, shorelines, or the exclusive economic zone by any vessel or onshore or offshore facility. See 33 U.S.C. 2702(a) and (b). Under 33 U.S.C. 2704(a), however, the total liability of each responsible party is limited, subject to certain exceptions specified in 33 U.S.C. 2704(c). In 1990, the total liability of responsible parties for an offshore facility incident was limited to ''the total of all removal costs plus $75,000,000.'' 33 U.S.C. 2704(a)(3).

To prevent the real value of the OPA liability limits from declining over time due to inflation and shifting the financial risk to the Oil Spill Liability Trust Fund (OSLTF), the President must adjust the limits ''not less than every three years,'' by regulation, to reflect significant CPI increases. 33 U.S.C. 2704(d)(4). This mandate preserves the deterrent effect and ''polluter pays'' principle embodied in the OPA.

BOEM issues this rule under title I of the OPA, E.O. 12777, as amended, and BOEM regulations at 30 CFR part 553, subpart G—Limit of Liability for Offshore Facilities. BOEM has good cause under 5 U.S.C. 553(b) for issuing this as a final rule; a proposed rule is unnecessary. The adjustment in the limit of liability is mandated by statute, the methodology for determining the amount of the adjustment is defined in BOEM's regulations, and BOEM's regulations provide that inflation adjustments to the offshore facilities limit of liability will be implemented through final rulemaking. §§ 553.703(b)(4) and 553.704.

II. Calculation of the 2022 Adjustment

The inflation adjustment methodology is provided in § 553.703. BOEM last adjusted the OPA offshore facility liability limit for inflation on January 18, 2018 (83 FR 2540). BOEM evaluates whether the liability limit should be adjusted for inflation not later than every 3 years since the previous adjustment. § 553.703(b)(2). BOEM calculates inflation by comparing the cumulative percent change in the Annual Consumer Price Index for All Urban Consumers (CPI–U) since the last adjustment. BOEM adjusts the liability limits when inflation reaches a significance threshold of 3 percent or greater. The January 2018 adjustment used the 2016 annual CPI–U.

BOEM used the Bureau of Labor Statistics (BLS) annual average CPI–U published in 2022 to calculate the inflation adjustment for the period between 2016 and 2022. The cumulative percent change in the annual CPI–U since 2016 exceeded 3 percent in 2022, the year that the annual CPI–U was published most recently. Therefore, BOEM must increase the offshore liability limit in § 553.702 by an amount equal to the cumulative percent change in the annual CPI–U since 2016.

Under § 553.703(a), the formula for calculating a cumulative percent change in the annual CPI–U is as follows: the percent change in the annual CPI–U = [(annual CPI–U for current period − annual CPI–U for previous period) ÷ annual CPI–U for previous period] × 100 and round to one decimal place. Using the BLS annual CPI–U index numbers for 2016 (previous period) and 2022 (current period), the calculation is: (292.655 − 240.007) ÷ 240.007 = 0.21936. Multiplying × 100 yields a cumulative percent change of 21.936 percent. Rounding to one decimal place, the resulting change is 21.9 percent.

Under paragraph (c) of § 553.703, BOEM calculates the inflation adjustment to the offshore facilities liability limit using the following formula: New limit of liability = previous limit of liability + (previous limit of liability × the decimal equivalent of the percent change in the annual CPI–U), rounded to the closest $100. The calculation is: $137.6595 million + ($137.6595 million × 0.219) = $167.8069 million.

Therefore, under § 553.702, BOEM is revising the responsible party's liability limit under OPA to cover all removal costs plus $167.8069 million for damages caused by each oil spill from an offshore facility, included any offshore pipeline.

Further information regarding the CPI and BLS's methodology for developing it is available at *https://www.bls.gov/opub/hom/cpi/home.htm.*

III. Effective Date

Under BOEM's regulations, the effective date of an inflation-adjusted liability limit is the 90th day after publication in the **Federal Register**. § 553.704. BOEM may select a different effective date as part of the rule establishing a new liability limit. *Id.* Given that this adjustment is mandated by statute and that the methodology for determining the amount of the update is defined in BOEM's regulations, BOEM determined that an effective date 30 days after this rule's publication is appropriate, instead of the 90 days stated in § 553.704.

IV. Statutory and Executive Order Reviews

A. Statutes

1. National Environmental Policy Act

This rule does not constitute a major Federal action significantly affecting the quality of the human environment because it is non-discretionary and consistent with BOEM's statutory authority. See 40 CFR 1508.1(q)(1)(ii). The OPA requires that, ''not less than every three years,'' BOEM adjust its liability limits by regulation to reflect significant CPI increases, 33 U.S.C. 2704(d)(4), and the formula for doing so is set by regulation. Accordingly, BOEM has no discretion in adjusting its OPA liability limits as reflected in this rule. Because this rule is not a major Federal action, it is therefore not subject to the requirements of the National Environmental Policy Act (NEPA, 42 U.S.C. 4321 *et seq.*). Even if this were a discretionary action subject to NEPA, which it is not, a detailed statement under NEPA is not required because this rule is administrative in nature and covered by a categorical exclusion. See 43 CFR 46.210(i). BOEM also has determined that the rule does not implicate any of the extraordinary circumstances listed in 43 CFR 46.215 that would require further analysis under NEPA. Therefore, a detailed statement under NEPA is not required.

2. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) requires an agency to prepare a

regulatory flexibility analysis for all rules unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. The RFA applies only to rules for which an agency is required to first publish a proposed rule. See 5 U.S.C. 603(a) and 604(a). Thus, the RFA does not apply to this rulemaking.

3. Paperwork Reduction Act

This rule does not contain information collection requirements, and, therefore, a submission to Office of Management and Budget (OMB) under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) is not required.

4. Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or Tribal governments, or on the private sector, of more than $100 million per year. The rule does not have a significant or unique effect on State, local, or Tribal governments, or on the private sector. Therefore, a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

5. Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2). This rule:

(a) Will not have an annual effect on the economy of $100 million or more;

(b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and

(c) Will not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

6. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*) this rule is not a major rule, as defined by 5 U.S.C. 804.

B. Executive Orders (E.O.)

1. Governmental Actions and Interference With Constitutionally Protected Property Rights (E.O. 12630)

This rule does not effect a taking of private property or otherwise have takings implications under E.O. 12630. Therefore, a takings implication assessment is not required.

2. Regulatory Planning and Review (E.O. 12866); Improving Regulation and Regulatory Review (E.O. 13563)

E.O. 12866 provides that the Office of Information and Regulatory Affairs (OIRA) in OMB will review all significant rules. OIRA has determined that this rule is not significant.

This rule updates the offshore facility liability limit under OPA. It is neither a new regulation, nor does it increase the regulatory burden on regulated entities. This rule simply updates the liability limit for inflation that accrued over a 6-year period, pursuant to OPA. 33 U.S.C. 2704(d)(4).

E.O. 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the Nation's regulatory system to reduce uncertainty and to promote predictability and the use of the best, most innovative, and least burdensome tools for achieving regulatory ends. E.O. 13563 directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. We have developed this rule in a manner consistent with these requirements.

3. Civil Justice Reform (E.O. 12988)

This rule complies with the requirements of E.O. 12988. Specifically, this rule:

(a) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and

(b) Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

4. Federalism (E.O. 13132)

Under the criteria in section 1 of E.O. 13132, this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. Therefore, a federalism summary impact statement is not required.

5. Consultation and Coordination With Indian Tribal Governments (E.O. 13175)

E.O. 13175 provides that Tribal consultation is not necessary for regulations required by statute. Because this rule simply implements a statutory mandate, Tribal consultation is not required by this Executive Order.

The Department of the Interior (DOI) continually strives to strengthen its government-to-government relationship with Indian Tribes through a commitment to consultation with Indian Tribes and a recognition of their right to self-governance and Tribal sovereignty. BOEM is also respectful of its responsibilities for consultation with corporations established pursuant to the Alaska Native Claims Settlement Act, 43 U.S.C. 1601 *et seq.* (ANCSA).

BOEM has evaluated this rule under DOI's consultation policy in chapters 4 and 5 of series 512 of the Departmental Manual. BOEM determined that this rule has no substantial direct effects on any Tribe or ANCSA Corporation, as defined in 512 DM 4.3 to include, among others, federally recognized Alaska Native tribes. Based on this evaluation, BOEM determined that consultation is not necessary to comply with any DOI policy.

6. Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use (E.O. 13211)

This rule is not a significant energy action under the definition in E.O. 13211. Therefore, a statement of energy effects is not required.

The action taken herein is pursuant to an existing delegation of authority.

List of Subjects in 30 CFR Part 553

Administrative practice and procedure, Continental shelf, Environmental protection, Intergovernmental relations, Oil and gas exploration, Oil pollution, Penalties, Pipelines, Rights-of-way, Reporting and recordkeeping requirements, Surety bonds, Securities.

Laura Daniel-Davis,

Principal Deputy Assistant Secretary, Land and Minerals Management.

For the reasons stated in the preamble, BOEM amends 30 CFR part 553 as follows:

PART 553—OIL SPILL FINANCIAL RESPONSIBILITY FOR OFFSHORE FACILITIES

■ 1. The authority citation for part 553 is revised to read as follows:

Authority: 33 U.S.C. 2704, 2716, as amended; E.O. 12777.

Subpart G—Limit of Liability for Offshore Facilities

■ 2. Revise § 553.702 to read as follows:

§ 553.702 What limit of liability applies to my offshore facility?

Except as provided in 33 U.S.C. 2704(c), the limit of liability under OPA for a responsible party for any offshore facility, including any offshore pipeline, is the total of all removal costs plus $167.8069 million for damages with respect to each incident.

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