

the Board, previously published a statement confirming their view that ECOA prohibits discrimination in the treatment of existing borrowers, such as by “[t]reat[ing] a borrower differently in servicing a loan or invoking default remedies” or “[using] different standards for pooling or packaging a loan in the secondary market.”<sup>73</sup> The same view is reflected in the manual used by the Federal Deposit Insurance Corporation, Office of the Comptroller of the Currency, and other financial regulators to conduct examinations of financial institutions for compliance with fair lending laws.<sup>74</sup> The Bureau has consistently taken the same view of “applicant,” including by reissuing the Board’s original definition; issuing guidance that Regulation B “covers creditor activities before, during, and after the extension of credit”;<sup>75</sup> and taking enforcement action to address violations of ECOA against existing borrowers.<sup>76</sup> In short, the Bureau’s interpretation is longstanding and well established.

## II. Regulatory Matters

This advisory opinion is an interpretive rule issued under the Bureau’s authority to interpret ECOA and Regulation B, including under section 1022(b)(1) of the Dodd-Frank Wall Street Reform and Consumer Protection Act, which authorized guidance as may be necessary or appropriate to enable the Bureau to administer and carry out the purposes and objectives of Federal consumer financial laws.<sup>77</sup>

By operation of ECOA section 706(e), no provision of ECOA imposing any liability applies to any act done or omitted in good faith in conformity with this interpretive rule, notwithstanding that after such act or omission has occurred, the interpretive rule is amended, rescinded, or determined by judicial or other authority to be invalid for any reason.<sup>78</sup>

<sup>73</sup> Policy Statement on Discrimination in Lending, 59 FR 18266, 18268 (Apr. 15, 1994).

<sup>74</sup> See Interagency Fair Lending Examination Procedures, at ii (Aug. 2009), available at <https://go.usa.gov/xey37>.

<sup>75</sup> Bureau of Consumer Fin. Prot., Equal Credit Opportunity Act Examination Procedures, at 1 (Oct. 2015), available at <https://go.usa.gov/xekcN>.

<sup>76</sup> See, e.g., *In re American Express Centurion Bank and American Express Bank, FSB*, No. 2017–CFPB–0016, 2017 WL 7520638 (Aug. 23, 2017) (consent order resolving claims that creditors discriminated against existing borrowers on the basis of race and national origin by, for example, subjecting certain borrowers to more aggressive collection practices).

<sup>77</sup> 12 U.S.C. 5512(b)(1). The relevant provisions of ECOA and Regulation B form part of Federal consumer financial law. 12 U.S.C. 5481(12)(D), (14).

<sup>78</sup> 15 U.S.C. 1691e(e).

As an interpretive rule, this rule is exempt from the notice-and-comment rulemaking requirements of the Administrative Procedure Act.<sup>79</sup> Because no notice of proposed rulemaking is required, the Regulatory Flexibility Act does not require an initial or final regulatory flexibility analysis.<sup>80</sup> The Bureau also has determined that this interpretive rule does not impose any new or revise any existing recordkeeping, reporting, or disclosure requirements on covered entities or members of the public that would be collections of information requiring approval by the Office of Management and Budget under the Paperwork Reduction Act.<sup>81</sup>

Pursuant to the Congressional Review Act,<sup>82</sup> the Bureau will submit a report containing this interpretive rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to the rule’s published effective date. The Office of Information and Regulatory Affairs has designated this interpretive rule as not a “major rule” as defined by 5 U.S.C. 804(2).

### Rohit Chopra,

Director, Consumer Financial Protection Bureau.

[FR Doc. 2022–10453 Filed 5–17–22; 8:45 am]

BILLING CODE 4810–AM–P

## POSTAL SERVICE

### 39 CFR Part 111

#### Domestic Competitive Products Pricing and Mailing Standards Changes

**AGENCY:** Postal Service™.

**ACTION:** Final rule.

**SUMMARY:** The Postal Service is amending *Mailing Standards of the United States Postal Service*, Domestic Mail Manual (DMM®), to reflect changes to pricing and mailing standards for certain competitive products.

**DATES:** *Effective:* July 10, 2022.

**FOR FURTHER INFORMATION CONTACT:** Steven Jarboe at (202) 268–7690, Margaret Pepe (202) 268–3078, or Garry Rodriguez at (202) 268–7281.

**SUPPLEMENTARY INFORMATION:** This final rule describes new price and product features for competitive products, by class of mail, established by the

<sup>79</sup> 5 U.S.C. 553(b).

<sup>80</sup> 5 U.S.C. 603(a), 604(a).

<sup>81</sup> 44 U.S.C. 3501–3521.

<sup>82</sup> 5 U.S.C. 801 *et seq.*

Governors of the United States Postal Service®. New prices are available under Docket Number CP2022–62 on the Postal Regulatory Commission (PRC) website at <https://www.prc.gov>, and on the Postal Explorer® website at <https://pe.usps.com>.

The Postal Service will revise *Mailing Standards of the United States Postal Service*, Domestic Mail Manual (DMM), to reflect changes to certain pricing and mailing standards for the following competitive products:

- Priority Mail®.
- Parcel Select®.
- Return Services.
- Other.

Competitive price and product changes are identified by product as follows:

#### Priority Mail

##### *Priority Mail Commercial Plus Cubic*

Currently, Commercial Plus cubic prices are available to Priority Mail customers whose account volumes exceeded 50,000 pieces in the previous calendar year and have a customer commitment agreement with the Postal Service.

The Postal Service is revising the DMM to remove the volume requirements for Priority Mail Commercial Plus Cubic prices. The Postal Service will also eliminate the requirement to have a customer commitment agreement for cubic pricing. Priority Mail cubic prices will now be available to all commercial customers.

##### *Priority Mail Maximum Insurance Indemnity*

The Postal Service is proposing to make the maximum insurance indemnity included with retail and commercial priced Priority Mail limited to a maximum liability of \$100.00. See **Federal Register** document, *New Mailing Standards for Domestic Mailing Services Products* (87 FR 21601–21603), for additional information.

#### Parcel Select

##### *Parcel Select Ground Cubic*

The Postal Service is implementing cubic pricing under the Parcel Select Ground price category. Parcel Select Ground cubic pricing will be available to eligible Parcel Select Ground customers for rectangular, nonrectangular, and soft pack mailpieces. Each mailpiece must measure 1 cubic foot or less, weigh 20 pounds or less, and the longest dimension may not exceed 18 inches. Cubic-priced mailpieces may not be rolls or tubes. Parcel Select Ground

cubic pricing will be available in ten pricing tiers.

**Return Services**

*USPS Returns Service*

The Postal Service is proposing to include \$100.00 of insurance with Priority Mail Return service pieces. See **Federal Register** document, *New Mailing Standards for Domestic Mailing Services Products* (87 FR 21601–21603), for additional information.

**Other**

*Postal Zone Calculation Revision*

Currently, prices for certain subclasses of mail are based on the weight of the individual piece and the distance that the piece travels from origin to destination (i.e., the number of postal zones crossed). For the administration of these postal zones, the earth is divided into units of area 30 minutes square, identical with a quarter of the area formed by the intersecting parallels of latitude and meridians of longitude. Postal zones are based on the distance between these units of area. The distance is measured from the center of the unit of area containing the SCF serving the origin Post Office to the SCF serving the destination Post Office.

The Postal Service is revising the calculation method for postal zones. The administration of postal zones will be calculated based on the centroid of each 3-digit ZIP Code area or combination of 3-digit ZIP Code areas. Postal zones will now be based on the distance between these units of area. The distance is measured from the centroid of the 3-digit ZIP Code area serving the origin Post Office to the centroid of the 3-digit ZIP Code area serving the destination Post Office. The 3-digit ZIP Code areas serving the origin and destination Post Offices will be determined by using Labeling List L002, Column A.

\* \* \* \* \*

**Resources**

The Postal Service provides additional resources to assist customers with this price change for competitive products. These tools include price lists, downloadable price files, and **Federal Register** Notices, which may be found on the Postal Explorer® website at <https://pe.usps.com>.

The Postal Service adopts the following changes to Mailing Standards of the United States Postal Service, Domestic Mail Manual (DMM), incorporated by reference in the Code of Federal Regulations. See 39 CFR 111.1.

We will publish an appropriate amendment to 39 CFR part 111 to reflect these changes.

**List of Subjects in 39 CFR Part 111**

Administrative practice and procedure, Postal Service.

Accordingly, 39 CFR part 111 is amended as follows:

**PART 111—[AMENDED]**

■ 1. The authority citation for 39 CFR part 111 continues to read as follows:

**Authority:** 5 U.S.C. 552(a); 13 U.S.C. 301–307; 18 U.S.C. 1692–1737; 39 U.S.C. 101, 401–404, 414, 416, 3001–3018, 3201–3220, 3401–3406, 3621, 3622, 3626, 3629, 3631–3633, 3641, 3681–3685, and 5001.

■ 2. Revise the *Mailing Standards of the United States Postal Service*, Domestic Mail Manual (DMM) as follows:

**Mailing Standards of the United States Postal Service, Domestic Mail Manual (DMM)**

\* \* \* \* \*

**200 Commercial Letters, Flats, and Parcels**

**201 Physical Standards**

\* \* \* \* \*

**7.0 Physical Standards for Parcels**

\* \* \* \* \*

**7.3 Maximum Weight and Size**

*[Revise the first sentence of 7.3 to read as follows:]*

No mailpiece may weigh more than 70 pounds. Lower weight limits apply to parcels mailed at cubic, Regional Rate Box, First-Class Package Service — Commercial, USPS Marketing Mail, Parcel Select Ground Cubic, and Bound Printed Matter prices. \* \* \*

\* \* \* \* \*

**7.8 Measuring Parcels Prepared in Soft Packaging**

*[Revise the introductory text of 7.8 to read as follows:]*

Except for Priority Mail Commercial Plus Cubic Soft Pack under 223.1.4 and Parcel Select Ground Cubic Soft Pack under 253., parcels prepared in soft packaging (poly, plastic, cloth, padded envelopes, or similar soft packaging) are measured to determine the dimensions (length, width, height) as follows:

\* \* \* \* \*

**8.0 Additional Physical Standards by Class of Mail**

\* \* \* \* \*

**8.2 Priority Mail**

*[Revise the text of 8.2 to read as follows:]*

The maximum weight is 70 pounds. Lower weight limits apply to parcels mailed at cubic (20 pounds); Regional Rate “Box A” (15 pounds); and Regional Rate “Box B” (20 pounds) prices. The combined length and girth of a piece (the length of its longest side plus the distance around its thickest part) may not exceed 108 inches. Lower size limits apply to parcels mailed at Flat Rate, Regional Rate, and cubic prices. Lower weight and size standards apply for some APO/FPO and DPO mail subject to 703.2.0, and 703.4.0, and for Department of State mail subject to 703.3.0.

\* \* \* \* \*

**202 Elements on the Face of a Mailpiece**

\* \* \* \* \*

**3.0 Placement and Content of Mail Markings**

\* \* \* \* \*

*[Revise the heading of 3.4 to read as follows:]*

**3.4 Priority Mail Cubic Markings**

**3.4.1 Price Marking—Postage Evidencing Systems**

*[Revise the first sentence of the introductory text of 3.4.1 to read as follows:]*

Priority Mail pieces claiming the cubic price must be marked “Priority Mail” and bear the applicable marking that reflects the correct price tier printed on the piece or produced as part of the postage indicia. \* \* \*

\* \* \* \* \*

*[Renumber 3.8 and 3.9 as 3.9 and 3.10. Add new 3.8 to read as follows:]*

**3.8 Parcel Select Ground Cubic Markings**

**3.8.1 Price Marking—Postage Evidencing Systems**

Parcel Select Ground pieces claiming the cubic price must be marked “Parcel Select Ground” and bear the applicable marking that reflects the correct price tier printed on the piece or produced as part of the postage indicia. The cubic tiers are determined by the cubic measurement of each mailpiece up to the defined threshold, (for example, measurements from .01 up to .10 for “Cubic .10” and from .101 up to .20 for “Cubic .20”). Place the marking directly above, directly below, or to the left of the postage. Approved markings are as follows:

- a. “Cubic .10”
- b. “Cubic .20”
- c. “Cubic .30”
- d. “Cubic .40”
- e. “Cubic .50”

- f. “Cubic .60”
- g. “Cubic .70”
- h. “Cubic .80”
- i. “Cubic .90”
- j. “Cubic 1.00”

**3.8.2 Price Marking—Permit Imprint**

Parcel Select Ground permit imprint pieces claiming the cubic price must be marked “Parcel Select Ground” and bear the “cubic” marking printed on the piece or produced as part of the permit imprint indicia. Place the marking directly above, directly below, or to the left of the postage. The approved marking is “Cubic” (or “CUBIC,” or “cubic”).

**3.8.3 Soft Pack and Padded Envelope Markings**

Regardless of the postage payment method used, soft pack and padded envelopes must be marked “Parcel Select Ground” in addition to the tier price markings in 3.8.1 and the dimensions (length and width) of the original packaging. Place the markings directly above, directly below, or to the left of the postage.

\* \* \* \* \*

**220 Commercial Mail Priority Mail**

**223 Prices and Eligibility**

**1.0 Prices and Fees**

**1.1 Price Application**

The following price applications apply:

*[Revise the first sentence of item a to read as follows:]*

a. Except Commercial Plus items weighing up to 0.5 pound (see 1.1c) and cubic items (see 1.1d), Priority Mail mailpieces are charged per pound; any fraction of a pound is rounded up to the next whole pound. \* \* \*

\* \* \* \* \*

*[Revise the text of item d to read as follows:]*

d. Cubic prices are not based on weight, but are charged by zone and cubic measurement of the mailpiece with any fraction of a measurement rounded down to the nearest ¼ inch. For example, if a dimension of a piece measures 12<sup>3</sup>/<sub>8</sub> inches, it is rounded down to 12¼ inches.

\* \* \* \* \*

*[Revise the heading of 1.4 and 1.4.1 to read as follows:]*

**1.4 Cubic**

**1.4.1 Cubic Eligibility**

*[Revise the text of 1.4.1 to read as follows:]*

Cubic prices are generally available to commercial Priority Mail customers. Each mailpiece must measure .50 cubic

foot or less, weigh 20 pounds or less, and the longest dimension may not exceed 18 inches. Cubic-priced mailpieces may not be rolls or tubes.

\* \* \* \* \*

*[Revise the heading of 1.4.2 to read as follows:]*

**1.4.2 Cubic Tiers**

\* \* \* \* \*

*[Revise the heading of Exhibit 1.4.4 to read as follows:]*

**Exhibit 1.4.4 Cubic Pricing Tiers for Soft Pack & Padded Envelopes**

\* \* \* \* \*

*[Delete the text of 1.4.5 in its entirety.]*

\* \* \* \* \*

**3.0 Basic Eligibility Standards for Priority Mail**

**3.1 Description of Service**

*[Revise the second sentence of 3.1 to read as follows:]*

\* \* \* Lower weight limits apply to cubic pieces (see 1.4); Regional Rate Boxes (see 1.8); APO/FPO mail subject to 703.2.0 and 703.4.0 and Department of State mail subject to 703.3.0.

\* \* \* \* \*

**224 Postage Payment and Documentation**

**1.0 Basic Standards for Postage Payment**

\* \* \* \* \*

*[Delete the text of 1.1.3 in its entirety.]*

\* \* \* \* \*

**225 Mail Preparation**

\* \* \* \* \*

*[Revise the heading and text of 4.0 to read as follows:]*

**4.0 Preparing a Cubic Mailing**

Cubic mailpieces for multiple price tiers may be combined in the same container.

\* \* \* \* \*

**250 Commercial Mail Parcel Select**

**253 Prices and Eligibility**

**1.0 Prices and Fees**

*[Revise the heading and text of 1.1 to read as follows:]*

**1.1 Pricing**

**1.1.1 Prices**

For prices, see Notice 123—Price List.

**1.1.2 Price Categories**

The price categories for Parcel Select are as follows:

- a. Destination Entry, including destination entry network distribution center (DNDC), destination entry

sectional center facility (DSCF), and destination entry delivery unit (DDU).

- b. Ground, including Ground Cubic.
- c. Lightweight.
- d. USPS Connect Local.

**1.1.3 Price Application**

The following price applications apply:

a. Prices for Destination Entry DNDC and Ground are based on the weight increment of each addressed piece, and on the zone to which the piece is addressed. The price is charged per pound or fraction thereof; any fraction of a pound is considered a whole pound. The minimum price per piece is the 1-pound price.

b. Prices for Destination Entry DDU and DSCF, and USPS Connect Local are based on the weight increment of each addressed piece. The price is charged per pound or fraction thereof; any fraction of a pound is considered a whole pound. The minimum price per piece is the 1-pound price.

c. Prices for USPS Connect Local Flat Rate packaging are based on a flat rate regardless of domestic destination and the actual weight (up to 25 pounds) of the mailpiece.

d. Prices for Ground Cubic are based on the zone and cubic measurement of the mailpiece with any fraction of a measurement rounded down to the nearest ¼ inch. For example, if a dimension of a Ground cubic piece measures 12<sup>3</sup>/<sub>8</sub> inches, it is rounded down to 12¼ inches.

e. Prices for Parcel Select Lightweight are based on the weight increment and entry of each addressed piece. The price is charged per ounce or fraction thereof, with any fraction of an ounce being rounded to the next whole ounce. The minimum price per piece is the 1-ounce price.

\* \* \* \* \*

*[Delete 1.2, Parcel Select Prices, and add new 1.2 to read as follows:]*

**1.2 Parcel Select Ground Cubic**

**1.2.1 Eligibility**

Cubic prices are available to eligible Parcel Select Ground customers including Ground Return Service under 505.3.0. Each mailpiece must measure 1 cubic foot or less, weigh 20 pounds or less, and the longest dimension may not exceed 18 inches. Cubic-priced mailpieces may not be rolls or tubes.

**1.2.2 Tiers**

Cubic prices consist of the following ten tiers:

- a. Tier 0.10—mailpieces measuring up to .10 cubic foot
- b. Tier 0.20—mailpieces measuring more than .10 up to .20 cubic foot

- c. Tier 0.30—mailpieces measuring more than .20 up to .30 cubic foot
- d. Tier 0.40—mailpieces measuring more than .30 up to .40 cubic foot
- e. Tier 0.50—mailpieces measuring more than .40 up to .50 cubic foot
- f. Tier 0.60—mailpieces measuring more than .50 up to .60 cubic foot
- g. Tier 0.70—mailpieces measuring more than .60 up to .70 cubic foot
- h. Tier 0.80—mailpieces measuring more than .70 up to .80 cubic foot
- i. Tier 0.90—mailpieces measuring more than .80 up to .90 cubic foot
- j. Tier 1.00—mailpieces measuring more than .90 up to 1.00 cubic foot

**1.2.3 Determining Cubic Tier Measurements for Rectangular and Nonrectangular Parcels**

Follow these steps to determine the cubic tier measurement for rectangular and nonrectangular parcels:

- a. Measure the length, width, and height at each dimension’s maximum point, in inches. Round down (see 604.7.0) each measurement to the nearest ¼ inch. For example, 6⅛” × 5⅞” × 6⅜” is rounded down to 6” × 5¾” × 6¼”.
- b. Multiply the length by the width by the height and divide by 1728. For example: 6” × 5¾” × 6¼” = 215.6 divided by 1728 = 0.125 (This piece exceeds 0.10—Tier 1 threshold). It is calculated at Tier 2—0.101 to 0.20.

**1.2.4 Determining Cubic Tier Measurement for Soft Pack and Padded Envelopes**

Cubic tier measurements for soft pack (poly, plastic, cloth, or similar soft packaging) and padded envelopes are based on the outside dimensions of length plus width, in inches, of the

original packaging material. Mailpieces that are pleated (e.g., expandable) must follow the measurement guidelines in 1.4.3 to be eligible for cubic pricing. Determine cubic tier measurements as follows:

- a. Measure the length and width separately in inches.
- b. Round down (see 604.7.0) each measurement to the nearest ¼ inch. For example, 10⅓ inches is rounded down to 10 inches.
- c. Add the two measurements together. The maximum total of length plus width cannot exceed 36 inches. See Exhibit 1.2.4 for corresponding price tiers.

**Exhibit 1.2.4 Cubic Pricing Tiers for Soft Pack & Padded Envelopes**

Cubic price tiers	Length plus width
0.10 .....	Mailpieces measuring from 0” up to 16”.
0.20 .....	Mailpieces measuring more than 16” up to 21”.
0.30 .....	Mailpieces measuring more than 21” up to 24”.
0.40 .....	Mailpieces measuring more than 24” up to 26”.
0.50 .....	Mailpieces measuring more than 26” up to 28”.
0.60 .....	Mailpieces measuring more than 28” up to 30”.
0.70 .....	Mailpieces measuring more than 30” up to 32”.
0.80 .....	Mailpieces measuring more than 32” up to 34”.
0.90 .....	Mailpieces measuring more than 34” up to 35”.
1.00 .....	Mailpieces measuring more than 35” up to 36”.

\* \* \* \* \*

**4.0 Price Eligibility for Parcel Select and Parcel Select Lightweight**

\* \* \* \* \*

**4.2 Parcel Select Ground Price Eligibility**

*[Revise the introductory text of 4.2 to read as follows:]*

To qualify for Parcel Select Ground prices including Parcel Select Ground cubic, mailings must meet one of the following volume thresholds:

\* \* \* \* \*

**254 Postage Payment and Documentation**

**1.0 Basic Standards for Postage Payment**

**1.1 Postage Payment Options**

**1.1.1 Parcel Select Destination Entry and Ground**

*[Revise the introductory text of 1.1.1 to read as follows:]*

Parcel Select destination entry and ground postage (including cubic) may be paid as follows:

\* \* \* \* \*

**255 Mail Preparation**

\* \* \* \* \*

*[Add new section 8.0 to read as follows:]*

**8.0 Preparing a Cubic Mailing**

Cubic mailpieces for multiple price tiers may be combined in the same container.

\* \* \* \* \*

**600 Basic Standards for All Mailing Services**

\* \* \* \* \*

**608 Postal Information and Resources**

\* \* \* \* \*

**9.0 Postal Zones**

**9.1 Basis**

*[Revise the text of 9.1 to read as follows:]*

Postal prices for certain subclasses of mail are based on the weight of the individual piece and the distance that the piece travels from origin to destination (i.e., the number of postal zones crossed). For the administration of these postal zones, the centroid of each 3 digit ZIP Code area or combination of 3 digit ZIP Code areas are calculated. Postal zones are based on

the distance between these units of area. The distance is measured from the centroid of the 3-digit ZIP Code area serving the origin Post Office to the centroid of the 3-digit ZIP Code area serving the destination Post Office. The 3-digit ZIP Code areas serving the origin and destination Post Offices are determined by using Labeling List L002, Column A.

**9.2 Application**

*[Revise the introductory text of 9.2 to read as follows:]*

Zones are used to compute postage on zoned mail sent between 3-digit ZIP Codes areas, including military Post Offices (MPOs), as follows:

*[Revise the text and footnote of item a to read as follows:]*

- a. For the purposes of computing postal zone information, except for items 9.2b and 9.2c, the following table applies to MPOs listed in L002, Column A.

3-Digit zip code prefix group	SCF serving the destination office
090–099 * .....	New York NY 100.
340 .....	Miami FL 331.

3-Digit zip code prefix group	SCF serving the destination office
962-966 * .....	San Francisco CA 940.

\* Priority Mail and First-Class Package Service destined to these ZIP Codes is served by Chicago IL 606.

\* \* \* \* \*

[Revise the text of item c by deleting the last three sentences.]

\* \* \* \* \*

#### 9.4.2 Nonlocal Zone

Nonlocal zones are defined as follows:

[Revise the text of item a to read as follows:]

a. The zone 1 price applies to pieces not eligible for the local zone in 9.4.1 that are mailed between two Post Offices with the same 3-digit ZIP Code prefix identified in L002, Column A. Zone 1 includes all units of area outside the local zone lying in whole or in part within a radius of about 50 miles from the center of the area.

\* \* \* \* \*

#### Index

\* \* \* \* \*

#### P

\* \* \* \* \*

#### Parcel Select

[Revise the Parcel Select entry by adding “cubic 253.2.1” alphabetically.]

\* \* \* \* \*

#### Notice 123 (Price List)

[Revise Notice 123 (Price List) as applicable.]

\* \* \* \* \*

Joshua J. Hofer,

Attorney, Ethics & Legal Compliance.

[FR Doc. 2022-10245 Filed 5-17-22; 8:45 am]

BILLING CODE P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 60, 61, 62, and 70

[EPA-R08-OAR-2021-0732; FRL-9829-02-R8]

### Approval of Clean Air Act Operating Permit Program Revisions; Negative Declaration of Existing Hospital/Medical/Infectious Waste Incinerators and Administrative Updates; South Dakota

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

**SUMMARY:** With this direct final rule, the Environmental Protection Agency (EPA or the “Agency”) is promulgating approval of revisions to the South Dakota operating permit program for stationary sources under Clean Air Act (CAA) title V (the “title V program”), a Clean Air Act (CAA) section 111(d)/129 negative declaration for incinerators subject to the Hospital/Medical/Infectious Waste Incinerators (HMIWI) Emissions Guidelines, and making administrative updates. EPA is taking this final action in accordance with the CAA.

**DATES:** This direct final rule is effective on July 18, 2022 without further notice, unless EPA receives adverse written comments on or before June 17, 2022. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA-R08-OAR-2021-0732. All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available electronically in [www.regulations.gov](http://www.regulations.gov). To reduce the risk of COVID-19 transmission, for this action we do not plan to offer hard copy review of the docket. Please email or call the person listed in the **FOR FURTHER INFORMATION CONTACT** section if you need to make alternative arrangements for access to the docket.

**FOR FURTHER INFORMATION CONTACT:** Carson Coate, Air and Radiation Division, EPA, Region 8, Mail code 8ARD, 1595 Wynkoop Street, Denver, Colorado, 80202-1129, telephone number: (406) 457-5042, email address: [coate.carson@epa.gov](mailto:coate.carson@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document “we,” “us,” and “our” means EPA.

#### I. Why is EPA using a direct final rule?

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial action and anticipates no adverse comments. However, elsewhere in this issue of the **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve South Dakota’s title V program revisions, the negative declaration for 40

CFR part 60, subpart Ce, and the administrative updates to 40 CFR 60.4 and 61.04, if relevant adverse comments are filed.

If EPA receives adverse comments, EPA will publish a timely withdrawal in the **Federal Register** informing the public that this direct final rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

#### II. Background

Title V of the CAA as amended (42 U.S.C. 7401 *et seq.*) directs states to develop and submit to EPA programs for issuing operating permits to all major stationary sources and to certain other sources.<sup>1</sup> As required under title V, EPA promulgated regulations establishing the minimum elements of an approvable state title V program and defined the corresponding procedures by which the EPA will approve, oversee and, when necessary, withdraw approval of a state title V program.<sup>2</sup> South Dakota received final, full approval of its title V program effective on February 28, 1996.<sup>3</sup>

Sections 111(d) and 129 of the CAA require states to submit plans to control certain pollutants (designated pollutants) at existing solid waste combustor facilities (designated facilities) whenever standards of performance have been established under section 111(b) for new sources of the same type, and EPA has established emissions guidelines for such existing sources.<sup>4</sup> CAA section 129 directs EPA to establish standards of performance for new sources (NSPS) and emissions guidelines for existing sources for each category of solid waste incineration unit.<sup>5</sup> Under CAA section 129, NSPS and emissions guidelines must contain numerical emissions limitations for particulate matter, opacity (as appropriate), sulfur dioxide, hydrogen chloride, oxides of nitrogen, carbon monoxide, lead, cadmium, mercury, and dioxins and dibenzofurans.<sup>6</sup> While NSPS are directly applicable to affected facilities, emissions guidelines for existing units are intended for states to use to develop a state plan to submit to EPA.<sup>7</sup> When an affected facility is located in a state, the state must then develop and submit a plan for the

<sup>1</sup> 42 U.S.C. 7661a.

<sup>2</sup> 40 CFR part 70.

<sup>3</sup> 61 FR 2720 (Jan. 29, 1996).

<sup>4</sup> 42 U.S.C. 7411(d), 7429(b)(2).

<sup>5</sup> 42 U.S.C. 7429(a).

<sup>6</sup> Id. 7429(a)(4).

<sup>7</sup> Id. 7429(b)(2).