

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 9, 36, 37, 38, 39, and 43

RIN 3038-AE25

### Swap Execution Facilities and Trade Execution Requirement

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Proposed rule; partial withdrawal.

**SUMMARY:** On November 30, 2018, the Commodity Futures Trading Commission (“CFTC” or the “Commission”) published a “Swap Execution Facilities and Trade Execution Requirement” notice of proposed rulemaking (“NPRM”) in the *Federal Register*. While the Commission has adopted certain proposals from the NPRM, in light of feedback the Commission received in response to the remaining proposals in the NPRM, the Commission has determined to not proceed with those unadopted proposals relating to the regulation of swap execution facilities (“SEFs”) and the trade execution requirement (“Determination”). In separate final rules, the Commission adopted the following portions of the NPRM: Two exemptions, pursuant to Commodity Exchange Act (“CEA”) section 4(c), from the trade execution requirement in CEA section 2(h)(8); and final rules related to audit trail requirements for post-trade allocations, SEF financial resource requirements, and SEF chief compliance officer requirements (collectively, the “Final Rules”). As such, this withdrawal does not impact or alter any of those sections of the NPRM that are being adopted in the Final Rules. In light of the Determination, the Commission has decided to withdraw the unadopted portions of the NPRM.

**DATES:** The Commission is withdrawing unadopted portions of the proposed rule published in the *Federal Register* on November 30, 2018 at 83 FR 61946 as of February 12, 2021. The affected

portions of the proposed rule are described in **SUPPLEMENTARY INFORMATION**.

**ADDRESSES:** Comments previously submitted in response to the NPRM remain on file at the Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581 and may also be accessed via the CFTC Comments Portal: <https://comments.cftc.gov>.

**FOR FURTHER INFORMATION CONTACT:** Roger Smith, Associate Chief Counsel, Division of Market Oversight, (202) 418-5344, [rsmith@cftc.gov](mailto:rsmith@cftc.gov), Commodity Futures Trading Commission, 525 West Monroe Street, Suite 1100, Chicago, IL 60661; or David E. Aron, Acting Associate Director, Division of Data, (202) 418-6621, [daron@cftc.gov](mailto:daron@cftc.gov), Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.

**SUPPLEMENTARY INFORMATION:** On November 30, 2018, the Commission published the NPRM, which proposed a comprehensive foundational shift in the regulatory framework for SEFs.<sup>1</sup> In particular, if adopted, the NPRM would have, among other things, (i) required that certain swaps broking entities, including interdealer brokers, and aggregators of single-dealer platforms register as SEFs pursuant to the registration requirement under CEA section 5h(a)(1);<sup>2</sup> (ii) broadened the scope of the trade execution requirement, but provided certain exemptions; (iii) allowed a SEF to offer flexible execution methods for swaps subject to the trade execution requirement; and (iv) established disclosure-based trading and execution rules applicable to any SEF execution method. In conjunction with flexible execution methods, the Commission also proposed limits on the scope of trading-related communications (“pre-execution communications”) that SEF participants may conduct away from a SEF’s trading system or platform, as well as proficiency requirements for certain SEF employees who facilitate trading. Additionally, the Commission proposed amendments to impartial access rules that would provide a SEF

with greater flexibility to structure its access requirements, and to tailor its rule enforcement program and disciplinary procedures and sanctions, to its trading operations and market. The proposed rules also would have made non-substantive amendments and various conforming changes to other Commission regulations.

In response to the NPRM, the Commission received fifty-six comment letters from SEFs, market participants, industry trade associations, public interest organizations, and other interested parties. The NPRM comprehensively sought to amend the SEF regulatory framework. For example, one commenter characterized the NPRM as a “fundamental reconstruction of the ‘SEF ecosystem,’” and “[the NPRM would] change many of the ways in which market participants interact with, and trade on, SEFs. This reconstruction of the existing ecosystem would present tall operational challenges and impose substantial costs on all market participants. . . .”<sup>3</sup> Several commenters expressed concern over the magnitude of changes behind the NPRM. Therefore, to avoid potential and unintended adverse market impacts caused by comprehensive and far-reaching changes, several commenters preferred that the Commission adopt a more “targeted” approach.

The Commission, at the time, proposed the NPRM based on particular views regarding the need for a comprehensive revamping of the regulatory framework for SEFs. In light of feedback the Commission received in response to the NPRM, and upon further consideration, the Commission believes that rather than comprehensively amending the fundamentals underpinning the SEF regime, the Commission should instead work to improve the SEF framework through targeted rulemakings that address distinct issues. The Commission agrees with commenters that this approach will help the Commission avoid unintended adverse market impacts caused by the comprehensive and far-reaching changes of the NPRM.

Therefore, the Commission has determined to withdraw the unadopted portions of the pending NPRM in order to allow the Commission to propose and

<sup>1</sup> See the NPRM, 83 FR 61946 (Nov. 30, 2018), available at: <https://www.cftc.gov/sites/default/files/2018-11/2018-24642a.pdf>.

<sup>2</sup> 7 U.S.C. 7b-3(a)(1).

<sup>3</sup> Futures Industry Association (“FIA”) Letter at 7.

adopt targeted rulemakings to address specific SEF issues or requirements.<sup>4</sup>

Issued in Washington, DC, on December 23, 2020, by the Commission.

**Christopher Kirkpatrick,**  
*Secretary of the Commission.*

**Note:** The following appendices will not appear in the Code of Federal Regulations.

## Appendices to Swap Execution Facilities and Trade Execution Requirement—Commission Voting Summary, Chairman's Statement, and Commissioners' Statements

### Appendix 1—Commission Voting Summary

On this matter, Chairman Tarbert and Commissioners Quintenz, Behnam, Stump, and Berkovitz voted in the affirmative. No Commissioner voted in the negative.

### Appendix 2—Statement of Support of Chairman Heath P. Tarbert

Nearly two thousand years ago, the Stoic philosopher and statesman Seneca the Younger observed that “*every new beginning comes from some other beginning's end.*” This remains as true today as it was then, and as it was in the 1990s when the band Semisonic built a song around it.

I vote today in support of withdrawing the remaining unadopted portions of the November 2018 Swap Execution Facilities (“SEF”) and Trade Execution Requirement proposal (“SEF Proposal”). With the beginning of a new SEF landscape based on other rules we are announcing today, it is appropriate to bring that proposal—which was itself a beginning of sorts—to an end.

The SEF Proposal, which was championed by my predecessor Chairman Chris Giancarlo, was comprehensive in that it sought to codify staff no-action relief and otherwise resolve operational concerns of SEFs and market participants. It also set forth structural reforms to the SEF regime beyond these operational fixes. The SEF Proposal reflected a great deal of time, effort, and thought, and resulted in several rules ultimately adopted by the Commission. I am grateful indeed for Chairman Giancarlo's thought leadership and the path that the SEF Proposal set our agency upon.

<sup>4</sup> Concurrently with this withdrawal, the Commission is adopting the Final Rules to implement various proposals from the NPRM. One of the Final Rules adopted two CEA section 4(c) exemptions from the trade execution requirement. Specifically, this final rulemaking adopted proposed § 36.1(c) and § 36.1(e), which were respectively re-numbered as § 36.1(b) and § 36.1(c) in the adopting release. See Exemption from Swap Execution Requirement, published in yesterday's issue of the **Federal Register**. The other adopted various proposals related to audit trail requirements for post-trade allocations, SEF financial resource requirements, and SEF chief compliance officer requirements. In particular, these final rules addressed the proposals for §§ 37.205(a) and (b)(2); 37.1301; 37.1302; 37.1303; 37.1304; 37.1305; 37.1306; 37.1307; and 37.1501. See Swap Execution Facilities, published in yesterday's issue of the **Federal Register**. This withdrawal does not impact or alter any of the Final Rules.

In particular, our Commission yesterday adopted from the SEF Proposal: (1) Two exemptions, pursuant to Commodity Exchange Act (“CEA”) section 4(c), from the trade execution requirement in CEA section 2(h)(8); and (2) final rules related to audit trail requirements for post-trade allocations, SEF financial resource requirements, and SEF chief compliance officer requirements. With respect to the unadopted portions of the SEF Proposal, the feedback received from market participants and the public made clear that moving forward would require significantly more work and a re-proposal of the rules. Therefore, I believe it is appropriate to withdraw those unadopted elements. Doing so is also consistent with our Commission's reasoning for withdrawing Regulation AT a few months ago—we can start a new beginning only once we have ended the prior beginning.

### Appendix 3—Statement of Support of Commissioner Brian D. Quintenz

I will vote in favor of withdrawing the unadopted provisions from the Commission's 2018 proposal comprehensively to amend the regulations applicable to swap execution facilities (SEFs),<sup>1</sup> but only because the Commission has already adopted many of these proposals, including in the areas of SEF financial resources, audit trail data, and exceptions to the trade execution requirement, so that the SEF ruleset becomes more practical for market participants. I note that many of the finalized provisions are based on longstanding no-action relief that has taken over eight years and a Republican administration to rationalize the inadequate ruleset left by the Commission's prior leadership.

I regret significantly, however, that certain aspects of the 2018 proposal have not been acted upon or debated as a Commission since. In particular, the CEA as amended by Dodd Frank, legally allows SEFs greater flexibility—specifically through “any means of interstate commerce”<sup>2</sup>—in which methods of execution they may offer for swaps subject to the trade execution requirement, than the overly prescriptive and government-knows-best requirement that a SEF may only provide either a RFQ-to-3 or a Central Limit Order Book (CLOB) trading mechanism, as dictated by an existing CFTC rule.<sup>3</sup> Indeed, such flexibility was recently requested by a wide range of market participants during the period of COVID-inspired market volatility and thin liquidity.<sup>4</sup> If such trade execution flexibility is necessary to support liquidity in a stressed environment, why would it not benefit the markets more generally in normal environments? Additionally, such flexibility is absolutely consistent with the definition of a SEF set forth in the CEA, that establishes a SEF as a multiple-to-multiple trading system.”<sup>5</sup>

<sup>1</sup> SEFs and Trade Execution Requirement, 83 FR 61946 (Nov. 30, 2018).

<sup>2</sup> Definition of SEF, sec. 1a(50) of the CEA.

<sup>3</sup> CFTC reg. 37.9(a).

<sup>4</sup> Comment letter from ISDA, dated May 22, 2020, in response to the Commission's February 2020 proposal on SEF and Real-Time Reporting requirements (85 FR 9407 (Feb. 19, 2020)).

<sup>5</sup> Definition of SEF, sec. 1a(50) of the CEA.

### Appendix 4—Statement of Concurrence of Commissioner Rostin Behnam

More than two years ago, in November 2018, the Commission voted to propose a comprehensive overhaul of the existing framework for swap execution facilities (SEFs).<sup>1</sup> Today, the Commission issues two rules finalizing aspects of the SEF Proposal and a withdrawal of the SEF Proposal's unadopted provisions. This is the final step in a long road. Last month, the Commission finalized rules emanating from the SEF Proposal regarding codification of existing no-action letters regarding, among other things, package transactions.<sup>2</sup> Today's final rules and withdrawal complete the Commission's consideration of the SEF Proposal.

Back in November 2018, I expressed concern that finalization of the SEF Proposal would reduce transparency, increase limitations on access to SEFs, and add significant costs for market participants.<sup>3</sup> I also noted that, while the existing SEF framework could benefit from targeted changes, particularly the codification of existing no-action relief, the SEF framework has in many ways been a success. I pointed out that the Commission's work to promote swaps trading on SEFs has resulted in increased liquidity, while adding pre-trade price transparency and competition. Nonetheless, I voted to put the SEF Proposal out for public comment, anticipating that the notice and comment process would guide the Commission in identifying a narrower set of changes that would improve the current SEF framework and better align it with the statutory mandate and the underlying policy objectives shaped after the 2008 financial crisis.<sup>4</sup> More than two years and many comment letters later, that is exactly what has happened. The Commission has been precise and targeted in its finalization of specific provisions from the SEF Proposal that provide needed clarity to market participants and promote consistency, competitiveness, and appropriate operational flexibility consistent with the core principles.

In addition to expressing substantive concerns about the overbreadth of the SEF Proposal, I also voiced concerns that we were rushing by having a comparatively short 75-day comment period.<sup>5</sup> In the end, the comment period was rightly extended, and the Commission has taken the time necessary to carefully evaluate the appropriateness of the SEF Proposal in consideration of its regulatory and oversight responsibilities and the comments received. I think that the consideration of the SEF Proposal is an example of how the process is supposed to

<sup>1</sup> Swap Execution Facilities and Trade Execution Requirement, 83 FR 61946 (Nov. 30, 2018) (the “SEF Proposal”).

<sup>2</sup> Swap Execution Facility Requirements (Nov. 18, 2020), <https://www.cftc.gov/PressRoom/PressReleases/8313-20>.

<sup>3</sup> Statement of Concurrence of Commissioner Rostin Behnam Regarding Swap Execution Facilities and Trade Execution Requirement, <https://www.cftc.gov/PressRoom/SpeechesTestimony/behnamstatement110518a>.

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

work. When we move too quickly toward the finish line and without due consideration of the surrounding environment, we risk making a mistake that will impact our markets and market participants.

Finally, I would like to address the Commission's separate vote to withdraw the unadopted provisions of the SEF Proposal. In the past, I have expressed concern with such withdrawals by an agency that has historically prided itself on collegiality and working in a bipartisan fashion.<sup>6</sup> In the case of today's withdrawal, the Commission has voted on all appropriate aspects of the SEF Proposal through three rules finalized during the past month. The Commission has voted unanimously on all of these rules, including today's decision to withdraw the remainder from further consideration. While normally a single proposal results in a single final rule, in this instance, multiple final rules have been finalized emanating from the SEF Proposal. This could lead to confusion regarding the Commission's intentions regarding the many unadopted provisions of the SEF Proposal. Under such circumstances, I think it is appropriate to provide market participants with clarity regarding the SEF Proposal. Accordingly, I will support today's withdrawal of the SEF Proposal. But rather than viewing it as a withdrawal of the SEF Proposal, I see it as an affirmation of the success of the existing SEF framework and the careful process to markedly improve the SEF framework in a measured and thoughtful way.

#### Appendix 5—Statement of Commissioner Dan M. Berkovitz

I support the Commission's decision to withdraw its 2018 proposal to overhaul the regulation of swap execution facilities ("SEFs")<sup>1</sup> ("2018 SEF NPRM") and proceed instead with targeted adjustments to our SEF rules ("Final Rules"). The two Final Rules approved today will make minor changes to SEF requirements while retaining the progress we have made in moving standardized swaps onto electronic trading platforms, which has enhanced the stability, transparency, and competitiveness of our swaps markets.<sup>2</sup>

When the Commission issued the 2018 SEF NPRM, I proposed that we enhance the existing swaps trading system instead of dismantling it. For example, I urged the Commission to clarify the floor trader exception to the swap dealer registration requirement and abolish the practice of post-trade name give-up for cleared swaps. I am pleased that the Commission already has acted favorably on both of those matters.

<sup>6</sup>Rostin Behnam, Commissioner, CFTC, Dissenting Statement of Commissioner Rostin Behnam Regarding Electronic Trading Risk Principles (June 25, 2020), <https://www.cftc.gov/PressRoom/SpeechesTestimony/behnamstatement062520b>.

<sup>1</sup>Swap Execution Facilities and Trade Execution Requirement, 83 FR 61946 (Nov. 30, 2018).

<sup>2</sup>Dissenting Statement of Commissioner Dan M. Berkovitz Regarding Proposed Rulemaking on Swap Execution Facilities and Trade Execution Requirement (Nov. 5, 2018), available at <https://www.cftc.gov/PressRoom/SpeechesTestimony/berkovitzstatement110518a>.

Today's rulemaking represents a further positive step in this targeted approach.

Many commenters to the 2018 SEF NPRM supported this incremental approach, advocating discrete amendments rather than wholesale changes. Today, the Commission is adopting two Final Rules that codify tailored amendments that received general support from commenters. The first rule—Swap Execution Facilities—amends part 37 to address certain operational challenges that SEFs face in complying with current requirements, some of which are currently the subject of no-action relief or other Commission guidance. The second rule—Exemptions from Swap Trade Execution Requirement—exempts two categories of swaps from the trade execution requirement, both of which are linked to exceptions to or exemptions from the swap clearing requirement.

#### *Swap Execution Facilities: Audit Trail Data, Financial Resources and Reporting, and Requirements for Chief Compliance Officers*

Commission regulations require a SEF to capture and retain all audit trail data necessary to detect, investigate, and prevent customer and market abuses, which currently includes identification of each account to which fills are ultimately allocated.<sup>3</sup> Following the adoption of these regulations, SEFs represented that they are unable to capture post-execution allocation data because the allocations occur away from the SEF, prompting CFTC staff to issue no-action relief. Other parties, including DCOs and account managers, must capture and retain post-execution allocation information and produce it to the CFTC upon request, and SEFs are required to establish rules that allow them obtain this allocation information from market participants as necessary to fulfill their self-regulatory responsibilities. Given that staff is not aware of any regulatory gaps that have resulted from SEFs' reliance on the no-action letter, codifying this alternative compliance framework is appropriate.

This Swap Execution Facility final rule also will amend part 37 to tie a SEF's financial resource requirements more closely to the cost of its operations, whether in complying with core principles and Commission regulations or winding down its operations. Based on its experience implementing the SEF regulatory regime, the Commission believes that these amended resource requirements—some of which simply reflect current practice—will be sufficient to ensure that a SEF is financially stable while avoiding the imposition of unnecessary costs. Additional amendments to part 37, including requirements that a SEF must prepare its financial statements in accordance with U.S. GAAP standards, identify costs that it has excluded in determining its projected operated costs, and notify the Commission within 48 hours if it is unable to comply with its financial resource requirements, will further enhance the Commission's ability to exercise its oversight responsibilities.

Finally, this rule makes limited changes to the Chief Compliance Officer ("CCO")

<sup>3</sup> 17 CFR 37.205(a), b(2)(iv).

requirements. As a general matter, I agree that the Commission should clarify certain CCO duties and streamline CCO reporting requirements where information is duplicative or not useful to the Commission. Although the CCO requirements diverge somewhat from those for futures commission merchants and swap dealers, the role of SEFs is different and therefore, standardization is not always necessary or appropriate. I expect that the staff will continue to monitor the effects of all of the changes adopted today and inform the Commission if it believes further changes to our rules are needed.

#### *Exemptions From Swap Trade Execution Requirement*

Commodity Exchange Act ("CEA") section 2(h)(8) specifies that a swap that is exempted from the clearing requirement pursuant to CEA section 2(h)(7) is not subject to the requirement to trade the swap on a SEF. Accordingly, swaps that fall into the statutory swap clearing exceptions (e.g., commercial end-users and small banks) are also exempted from the trading mandate. However, the Commission has also exempted from mandatory clearing swaps entered into by certain entities (e.g., cooperatives, central banks, and swaps between affiliates) using different exemptive authorities from section 2(h)(7).

The Exemptions from Swap Trade Execution Requirement final rule affirms the link between the clearing mandate and the trading mandate for swaps that are exempted from the clearing mandate under authorities other than CEA section 2(h)(7). The additional clearing exemptions are typically provided by the Commission to limited types of market participants, such as cooperatives or central banks that use swaps for commercial hedging or have financial structures or purposes that greatly reduce the need for mandatory clearing and SEF trading. In addition, limited data provided in the release indicates that, at least up to this point in time, these exempted swaps represent a small percentage of the notional amount of swaps traded.

This final rule also exempts inter-affiliate swaps from the trade execution requirement. These swaps are exempted from the clearing requirement primarily because the risks on both sides of the swap are, at least in some respects, held within the same corporate enterprise. As described in the final rule release, these swaps may not be traded at arms-length and serve primarily to move risk from one affiliate to another within the same enterprise. Neither market transparency nor price discovery would be enhanced by including these transactions within the trade execution mandate. For these reasons, I am approving the Exemptions from Swap Trade Execution Requirement final rule as a sensible exemption consistent with the relevant sections of the CEA.

#### *Conclusion*

These two Final Rules provide targeted changes to the SEF regulations based on experience from several years of implementing them. These limited changes, together with the withdrawal of the remainder of the 2018 SEF NPRM, effectively

leave in place the basic framework of the SEF rules as originally adopted by the Commission. This framework has enhanced market transparency, improved competition, lowered transaction costs, and resulted in better swap prices for end users. While it may be appropriate to make other incremental changes going forward, it is important that we affirm the established regulatory program for SEFs to maintain these benefits and facilitate further expansion of this framework.

I thank the staff of the Division of Market Oversight for their work on these two rules and their helpful engagement with my office.

[FR Doc. 2020-28945 Filed 2-11-21; 8:45 am]

**BILLING CODE** 6351-01-P

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R05-OAR-2020-0542; FRL-10017-35-Region 5]

#### Air Plan Approval; Illinois; Volatile Organic Material Definition Update

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve a revision to the Illinois State Implementation Plan (SIP). The revision will amend the Illinois Administrative Code (IAC) by updating the definition of volatile organic material (VOM) and volatile organic compounds (VOC) to exclude (Z)-1,1,1,4,4,4-hexafluorobut-2-ene. This revision is consistent with an EPA rulemaking in 2018, which exempted this compound from the Federal definition of VOC on the basis that the compound makes a negligible contribution to tropospheric ozone formation.

**DATES:** Comments must be received on or before March 15, 2021.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R05-OAR-2020-0542 at <http://www.regulations.gov>, or via email to [aburano.douglas@epa.gov](mailto:aburano.douglas@epa.gov). For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be

accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

#### FOR FURTHER INFORMATION CONTACT:

Andrew Lee, Physical Scientist, Attainment Planning and Maintenance Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353-7645, [lee.andrew.c@epa.gov](mailto:lee.andrew.c@epa.gov). The EPA Region 5 office is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays and facility closures due to COVID-19.

#### SUPPLEMENTARY INFORMATION:

Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA.

#### I. Background Information

Tropospheric ozone, commonly known as smog, is formed when VOC and nitrogen oxides (NO<sub>x</sub>) react in the atmosphere in the presence of sunlight. Because of the harmful effects of ozone, EPA and state governments implement rules to limit the amount of certain VOC and NO<sub>x</sub> that can be released into the atmosphere. VOC are those compounds of carbon (excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate) that form ozone through atmospheric photochemical reactions. VOC have different levels of reactivity; they do not react at the same speed or form ozone to the same extent.

The Clean Air Act (CAA) requires the regulation of VOC for various purposes. Section 302(s) of the CAA specifies that EPA has the authority to define the meaning of VOC, and hence, what compounds shall be treated as VOC for regulatory purposes. EPA’s longstanding policy is that compounds of carbon with negligible reactivity need not be regulated to reduce ozone and should be exempted from the regulatory definition of VOC. See 42 FR 35314 (July 8, 1977), 70 FR 54046 (Sept. 13, 2005).

EPA uses the reactivity of ethane as the threshold for determining whether a

compound makes a negligible contribution to tropospheric ozone formation. Compounds that are less reactive than, or equally reactive to, ethane under certain assumed conditions may be deemed negligibly reactive and, therefore, suitable for exemption by EPA from the regulatory definition of VOC. EPA lists compounds it has determined to be negligibly reactive, and thus excluded from the regulatory definition of VOC, in 40 CFR 51.100(s).

On November 28, 2018, EPA added cis-1,1,1,4,4,4-hexafluorobut-2-ene (also known as HFO-1336mzz-Z; Chemical Abstract Service (CAS) RN 692-49-9), a hydrofluoroolefin, to the list of compounds excluded from the regulatory definition of VOC because it makes a negligible contribution to ground-level ozone formation. See 83 FR 61127.

#### II. The Illinois Submittal

On October 20, 2020, the Illinois Environmental Protection Agency (IEPA) submitted amendments to 35 IAC 211.7150 “Volatile Organic Material (VOM) or Volatile Organic Compound (VOC)” for approval as revisions to the Illinois SIP. Illinois’ SIP currently includes a definition of VOM at 35 IAC 211.7150. See 81 FR 95475 (Dec. 28, 2016). Subsection (a) of 35 IAC 211.7150 includes a list of compounds excluded from the regulatory definition of VOC, which reflect some of the compounds EPA has excluded in 40 CFR 51.100(s), on the basis that they make a negligible contribution to tropospheric ozone formation.

The proposed SIP revision updates the compounds excluded from the definition of VOM to conform to EPA’s recent exemption of a chemical compound from regulations of ozone precursors. Specifically, the SIP revision excludes (Z)-1,1,1,4,4,4-hexafluorobut-2-ene from the definition of VOM or VOC at 35 IAC 211.7150. Illinois uses the International Union of Pure and Applied Chemistry (IUPAC) preferred name of (Z)-1,1,1,4,4,4-hexafluorobut-2-ene instead of cis-1,1,1,4,4,4-hexafluorobut-2-ene when addressing the compound. These changes do not interfere with the Federal listing of excluded compounds, and provide more specific chemical composition, structural, and isomeric identification information. Illinois also lists the compound by its other identifiers: HFO-1336mzz-Z and CAS No. 692-49-9.

The Illinois Pollution Control Board (IPCB) held a public hearing on the proposed SIP revision on July 16, 2020. IPCB received three comments at the public hearing that resulted in no