

affected airplanes. The unsafe condition, if not addressed, could result in accumulation of water and ice in the pipe and, in case of an engine fire, prevent extinguishing that engine fire, possibly resulting in reduced control of the airplane.

**(f) Compliance**

Comply with this AD within the compliance times specified, unless already done.

**(g) Requirements**

Except as specified in paragraphs (h) and (i) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2023–0169.

**(h) Exceptions to EASA AD 2023–0169**

(1) Where EASA AD 2023–0169 refers to its effective date, this AD requires using the effective date of this AD.

(2) This AD does not adopt the “Remarks” section of EASA AD 2023–0169.

**(i) No Reporting Requirement**

Although the material referenced in EASA AD 2023–0169 specifies to submit certain information to the manufacturer, this AD does not include that requirement.

**(j) Additional AD Provisions**

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs)*: The Manager, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the manager of the International Validation Branch, mail it to the address identified in paragraph (k) of this AD. Information may be emailed to: [9-AVS-AIR-730-AMOC@faa.gov](mailto:9-AVS-AIR-730-AMOC@faa.gov). Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(2) *Contacting the Manufacturer*: For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, International Validation Branch, FAA; or EASA; or Airbus SAS’s EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(3) *Required for Compliance (RC)*: Except as required by paragraph (j)(2) of this AD, if any material contains procedures or tests that are identified as RC, those procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator’s maintenance or inspection program without obtaining approval of an AMOC, provided the procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or

changes to procedures or tests identified as RC require approval of an AMOC.

**(k) Additional Information**

For more information about this AD, contact Vladimir Ulyanov, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone 206–231–3229; email [Vladimir.Ulyanov@faa.gov](mailto:Vladimir.Ulyanov@faa.gov).

**(l) Material Incorporated by Reference**

(1) The Director of the Federal Register approved the incorporation by reference of the material listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this material as applicable to do the actions required by this AD, unless this AD specifies otherwise.

(i) European Union Aviation Safety Agency (EASA) AD 2023–0169, dated September 4, 2023.

(ii) [Reserved]

(3) For EASA AD 2023–0169, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email [ADs@easa.europa.eu](mailto:ADs@easa.europa.eu); website [easa.europa.eu](http://easa.europa.eu). You may find this EASA AD on the EASA website at [ad.easa.europa.eu](http://ad.easa.europa.eu).

(4) You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

(5) You may view this material at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, visit [www.archives.gov/federal-register/cfr/ibr-locations](http://www.archives.gov/federal-register/cfr/ibr-locations), or email [fr.inspection@nara.gov](mailto:fr.inspection@nara.gov).

Issued on October 3, 2024.

**Peter A. White,**

*Deputy Director, Integrated Certificate Management Division, Aircraft Certification Service.*

[FR Doc. 2024–23538 Filed 10–18–24; 8:45 am]

**BILLING CODE 4910–13–P**

**DEPARTMENT OF THE TREASURY**

**Internal Revenue Service**

**26 CFR Part 31**

[TD 10008]

**RIN 1545–BN52**

**Withholding on Certain Distributions Under Section 3405(a) and (b)**

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Final regulation.

**SUMMARY:** This document contains a final regulation regarding income tax withholding on certain periodic payments and nonperiodic distributions from employer deferred compensation plans, individual retirement plans, and commercial annuities that are not

eligible rollover distributions. The regulation addresses a payor’s obligation to withhold income taxes in the circumstances in which those payments or distributions are made to payees outside of the United States and affects payors and payees of those periodic payments and nonperiodic distributions.

**DATES:**

*Effective date.* This regulation is effective October 21, 2024.

*Applicability date.* This regulation applies with respect to payments and distributions made on or after January 1, 2026. However, taxpayers may apply it to earlier payments and distributions.

**FOR FURTHER INFORMATION CONTACT:**

Jeremy Lamb at (202) 317–4575 or Isaac Stein at (202) 317–6320 (not toll-free numbers).

**SUPPLEMENTARY INFORMATION:**

**Authority**

Section 7805(a) authorizes the Secretary to prescribe all needful rules and regulations for the enforcement of the Code.

**Background**

Section 3405(a)(1) of the Internal Revenue Code of 1986 (Code) requires the payor of any periodic payment to withhold income tax from the payment. Under section 3405(a)(2), an individual generally may elect not to have section 3405(a)(1) apply with respect to periodic payments made to the individual. Section 3405(b)(1) requires the payor of any nonperiodic distribution to withhold income tax from the distribution. Under section 3405(b)(2), an individual generally may elect not to have section 3405(b)(1) apply with respect to any nonperiodic distribution.

Section 3405(e)(2) defines a periodic payment as a designated distribution that is an annuity or similar periodic payment. Section 3405(e)(3) defines a nonperiodic distribution as any designated distribution that is not a periodic payment. A designated distribution is defined in section 3405(e)(1) as generally any distribution or payment from or under an employer deferred compensation plan, an individual retirement plan (as defined in section 7701(a)(37) of the Code), or a commercial annuity. For this purpose, an employer deferred compensation plan is defined in section 3405(e)(5) as any pension, annuity, profit sharing, or stock bonus plan or other plan deferring the receipt of compensation, and a commercial annuity is defined in section 3405(e)(6) as an annuity, endowment, or life insurance contract

issued by an insurance company licensed to do business under the laws of any State.

Section 3405(e)(1)(B) identifies certain amounts or payments that are not a “designated distribution” for purposes of section 3405 withholding. Under section 3405(e)(1)(B)(iii), any amount that is subject to withholding under subchapter A of chapter 3 of the Code (relating to withholding of tax on nonresident aliens and foreign corporations) by the person paying such amount or which would be so subject but for a tax treaty is not a designated distribution.

Section 3405(e)(13)(A) provides generally that, in the case of any periodic payment or nonperiodic distribution that is “to be delivered outside of the United States and any possession of the United States,” no election may be made under section 3405(a)(2) or (b)(2) with respect to such payment, with the result that withholding may not be waived. Section 3405(e)(13)(B) provides that section 3405(e)(13)(A) does not apply if the recipient certifies to the payor, in such manner as the Secretary of the Treasury may prescribe, that the recipient is not (i) a United States citizen or a resident alien of the United States, or (ii) an individual to whom section 877 of the Code applies. Section 877(h) provides that section 877 applies to certain nonresident alien individuals whose expatriation date, as defined in section 877A(g)(3), is before June 17, 2008.

Notice 87–7, 1987–1 CB 420, provides guidance under section 3405(e)(13)(A) to payors of designated distributions with respect to their duty to withhold income tax from such distributions. The notice applies to designated distributions for the following categories of payees: (1) payees who have provided the payors with a residence address outside of the United States;<sup>1</sup> (2) payees who have provided the payors with a residence address within the United States; and (3) payees who have not provided the payors with a residence address.

Notice 87–7 specifies that, if a payee has provided the payor with a residence address outside of the United States, the payor is required to withhold income tax from designated distributions to the payee. If a payee has provided the payor with a residence address within the United States, the payor is required to withhold income tax from these distributions to the payee unless the payee has elected no withholding in

<sup>1</sup> For purposes of this preamble, references to the “United States” include any possession of the United States.

accordance with the applicable provisions of section 3405. If a payee has not provided the payor with a residence address, the payor is required to withhold income tax from designated distributions; included within this category is a payee who has provided the payor with an address for the payee’s nominee, trustee, or agent without also providing the payee’s residence address.

On May 31, 2019, the Department of the Treasury (Treasury Department) and the IRS published a notice of proposed rulemaking regarding withholding on certain periodic payments and nonperiodic distributions under section 3405 (other than eligible rollover distributions) in the **Federal Register** (84 FR 25209). No comments responsive to the notice of proposed rulemaking were received, and no public hearing was requested or held. Thus, this final regulation adopts the provisions of the proposed regulation with no modifications except for the change in the applicability date to January 1, 2026, and other minor changes in wording that are nonsubstantive.

#### Explanation of Provisions

This document contains a final regulation under section 3405(e) that provides withholding guidance for payors of periodic payments and nonperiodic distributions under section 3405(a) and (b), respectively. The regulation generally addresses a payor’s obligation to withhold under section 3405(a) and (b) in the following situations: (1) payments to payees with a military or diplomatic Post Office address; (2) payments to payees with a residence address located within the United States; (3) payments to payees with a residence address located outside of the United States or who have not provided a residence address; and (4) payments subject to withholding under subchapter A of chapter 3 (sections 1441 through 1446 of the Code).

##### 1. Payees With a Military or Diplomatic Post Office Address

For purposes of section 3405(e)(13)(A), the regulation treats an Army Post Office (APO), a Fleet Post Office (FPO), or a Diplomatic Post Office (DPO)<sup>2</sup> address as an address located within the United States. In 1986, when this provision was added to the Code by the Tax Reform Act of 1986, Public Law

<sup>2</sup> APO is associated with Army or Air Force installations. FPO is associated with Navy installations and ships. APO/FPO addresses are utilized by Department of Defense personnel, their family members, and other authorized users. DPO provides global mail service to authorized personnel assigned to designated posts abroad.

99–514 (TRA ’86), it was one of several provisions intended to increase compliance with the internal revenue laws by United States persons resident abroad and green card holders. The Senate Finance Committee Report for TRA ’86 indicates a concern, based on data gathered by the General Accounting Office (GAO),<sup>3</sup> that the percentage of taxpayers who fail to file returns is substantially higher among Americans living abroad than it is among those resident in the United States, and that it is often difficult for the IRS to enforce compliance by these taxpayers. S. Rep. No. 99–313, at 390 (1986).

The GAO data referred to in the legislative history does not include United States military personnel and their families as taxpayers who are living abroad. Johnny C. Finch, *United States Citizens Living in Foreign Countries and Not Filing Federal Income Tax Returns*, United States General Accounting Office, May 8, 1985. In addition, enforcement of compliance by individuals receiving mail at an APO, an FPO, or a DPO address generally does not involve the same challenges as enforcing compliance by other taxpayers living abroad. Because APO, FPO, and DPO delivery destinations are generally United States military or diplomatic facilities, taxpayers with an APO, an FPO, or a DPO address commonly maintain a current or former employment or contractor relationship with the United States government. Moreover, these addresses generally are treated as “domestic” by the United States Postal Service. *United States Domestic Mail Manual*, 608.2.2.

For these reasons, the Treasury Department and the IRS have determined that treating a United States military or diplomatic post office address as located within the United States for purposes of section 3405(e)(13)(A) is consistent with the tax avoidance concerns underlying the enactment of that provision. Accordingly, the regulation provides that designated distributions to United States military and diplomatic personnel or their families are not treated as delivered outside of the United States solely because those payments or distributions are to be delivered to an APO, an FPO, or a DPO address.

<sup>3</sup> Effective July 7, 2004, the GAO’s legal name was changed from the General Accounting Office to the Government Accountability Office.

## 2. Payees With a Residence Address Located Within the United States

The regulation imposes withholding requirements on payors regarding certain payees who have provided the payor with a residence address located within the United States. Under Notice 87-7, payors are not required to withhold if a payee provides a residence address located within the United States and the payee elects no withholding. Notice 87-7 does not specifically address whether payors are required to withhold when a payee provides a residence address located within the United States, but also provides payment instructions indicating that the funds are to be delivered outside of the United States. As explained in the Background section of this preamble, the mandatory withholding for amounts to be delivered outside of the United States was enacted because Congress was concerned about noncompliance. Section 3405(e)(13)(A) refers to “any periodic payment or nonperiodic distribution which is to be delivered outside of the United States.” Consistent with the text of section 3405(e)(13)(A) and its purpose, the regulation requires payors to withhold in certain circumstances when a payee provides a residence address located within the United States but also provides payment instructions indicating that the funds are to be delivered outside of the United States.

## 3. Payees With a Residence Address Located Outside of the United States or Who Have Not Provided a Residence Address

Unless section 3405(e)(13)(B) (which provides an exception for certain nonresident aliens) applies, if the payee’s residence address that is provided to the payor is located outside of the United States, the payor is required to withhold income tax under section 3405 from any designated distribution, without regard to the delivery instructions and without regard to any attempt to elect no withholding. Thus, for example, withholding under section 3405 would be required even if a payee with a foreign residence address has requested that the distribution be deposited with a financial institution located within the United States. Given the ease with which the funds deposited with a financial institution in the United States can be withdrawn by a person located outside the United States, the Treasury Department and the IRS have concluded that the payee’s residence address is more likely to be indicative of the place the distribution is ultimately to be delivered than the

location of the financial institution. The same requirement to withhold income tax under section 3405 applies if a payee has not provided a residence address to the payor. Furthermore, a payee who has provided the payor with an address for the payee’s nominee, trustee, or agent without also providing the payee’s residence address has not provided a residence address for purposes of this regulation.

These rules are consistent with the approach in Notice 87-7, which uses the residence address of the payee in order to determine whether a taxpayer is permitted to make an election not to have withholding apply under section 3405(a)(2) or (b)(2). The Treasury Department and the IRS have determined that this interpretation articulated in Notice 87-7 provides an administrable standard that has been relied upon for many years, is consistent with the TRA ’86 legislative history, and appropriately addresses tax avoidance concerns underlying section 3405(e)(13)(A).<sup>4</sup>

## 4. Payments Subject to Withholding Under Subchapter A of Chapter 3

In accordance with section 3405(e)(1)(B)(iii), the regulation clarifies that a designated distribution does not include a distribution that is subject to withholding under subchapter A of chapter 3 (or that would be subject but for a tax treaty). Therefore, the withholding rules under section 3405(a) and (b) do not apply to such a distribution. For example, section 3405(a) or (b) withholding would not apply to a United States-source distribution to a nonresident alien individual from a trust described in section 401(a) of the Code. In such a case, the withholding rules of section 1441 (within subchapter A of chapter 3) that apply to nonresident aliens would apply to such a distribution. See § 1.1441-1(b)(1).

## Applicability Date

This regulation applies with respect to payments and distributions made on or after January 1, 2026. However, taxpayers may apply the regulation to earlier payments and distributions. Notice 87-7 is obsoleted with respect to payments and distributions made after December 31, 2025.

<sup>4</sup> The Senate Finance Committee Report states that “it will be appropriate to require withholding with respect to pension payments to persons with foreign addresses absent a showing that withholding is not required.” S. Rep. No. 99-313, at 391 (1986).

## Statement of Availability of IRS Documents

The IRS notice cited in this preamble is published in the Cumulative Bulletin and is available from the Superintendent of Documents, U.S. Government Publishing Office, Washington, DC 20402.

## Special Analyses

### I. Regulatory Planning and Review

Pursuant to the Memorandum of Agreement, Review of Treasury Regulations under Executive Order 12866 (June 9, 2023), tax regulatory actions issued by the IRS are not subject to the requirements of section 6 of Executive Order 12866, as amended. Therefore, a regulatory impact assessment is not required.

### II. Paperwork Reduction Act

The collection of information related to the withholding requirements is captured within the forms and instructions for Forms W-4P and W-4R. Both of these forms are approved under OMB Number 1545-0074. This regulation does not alter any previously approved information collection requirements contained within the forms and instructions for Forms W-4P and W-4R, and this regulation does not create new collection requirements not already approved by the Office of Management and Budget.

### III. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (5 U.S.C. chapter 6) it is hereby certified that the collection of information in this regulation will not have a significant economic impact on a substantial number of small entities. The number of small entities potentially affected by this regulation is unknown but could be substantial because based on data and information available to the Treasury Department and the IRS, most defined benefit and defined contribution retirement plans are sponsored by small employers (defined as employers with fewer than 100 employees), while annuities and IRAs are typically set up by large financial institutions. Although a substantial number of small entities is potentially affected by this regulation, the Treasury Department and the IRS have concluded that this regulation will not have a significant economic impact on a substantial number of small entities. This is because the main purpose and effect of this regulation is to treat military and diplomatic post office addresses the same as residence addresses located within the United States for purposes of income tax

withholding, and payors of distributions from retirement plans and annuities are already processing distributions to payees with residence addresses located within the United States. Accordingly, this regulation will not have a significant economic impact on a substantial number of small entities. Therefore, a regulatory flexibility analysis under the Regulatory Flexibility Act is not required.

Pursuant to section 7805(f) of the Code, the notice of proposed rulemaking preceding this regulation was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

#### IV. Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 requires that agencies assess anticipated costs and benefits and take certain other actions before issuing a final rule that includes any Federal mandate that may result in expenditures in any one year by a state, local, or tribal government, in the aggregate, or by the private sector, of \$100 million in 1995 dollars, updated annually for inflation. This regulation does not include any Federal mandate that may result in expenditures by state, local, or tribal governments, or by the private sector in excess of that threshold.

#### V. Executive Order 13132: Federalism

Executive Order 13132 (Federalism) prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial, direct compliance costs on state and local governments, and is not required by statute, or preempts state law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. This rule does not have federalism implications and does not impose substantial direct compliance costs on state and local governments or preempt state law within the meaning of the Executive Order.

#### VI. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), the Office of Information and Regulatory Affairs designated this rule as not a major rule, as defined by 5 U.S.C. 804(2).

#### Drafting Information

The principal author of this regulation is Jeremy Lamb, of the IRS Office of Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes (EEE)). However, other personnel from the Treasury

Department and the IRS participated in the development of the regulation.

#### List of Subjects in 26 CFR Part 31

Employment taxes, Income taxes, Penalties, Pensions, Railroad retirement, Reporting and recordkeeping requirements, Social security, Unemployment compensation.

#### Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 31 is amended as follows:

#### PART 31—EMPLOYMENT TAXES AND COLLECTION OF INCOME AT THE SOURCE

■ **Paragraph 1.** The authority citation for part 31 continues to read in part as follows:

Authority: 26 U.S.C. 7805.

\* \* \* \* \*

■ **Par. 2.** Section 31.3405(e)–1 is added to read as follows:

#### § 31.3405(e)–1 Questions and answers relating to withholding on pensions, annuities, and certain other deferred income.

(a) The following questions and answers apply for purposes of determining whether a payor of periodic payments or nonperiodic distributions from pensions, annuities, and certain other deferred income (other than eligible rollover distributions) must withhold federal income tax under section 3405(a) or (b) of the Code. For purposes of this section, references to the United States include possessions of the United States.

(b)(1) *Q-1.* Is an Army Post Office (APO), a Fleet Post Office (FPO), or a Diplomatic Post Office (DPO) address an address located within the United States for purposes of section 3405(e)(13)(A)?

(2) *A-1.* For purposes of section 3405(e)(13)(A), an APO, an FPO, or a DPO address is an address located within the United States.

(c)(1) *Q-2.* Is the payor of a designated distribution described in section 3405(a) or (b) required to withhold income tax from the distribution if the payee's residence address that is provided to the payor is located within the United States?

(2) *A-2.* If the payee's residence address that is provided to the payor of a designated distribution described in section 3405(a) or (b) is located within the United States, then the payor is required to withhold income tax from the distribution unless the payee has made a valid election of no withholding in accordance with section 3405(a)(2) or (b)(2). Any election of no withholding

with respect to such a distribution under section 3405(a)(2) or (b)(2) is not valid if the payee instructs the payor to do one or more of the following in connection with the distribution:

(i) Send the distribution to a financial institution or other person located outside of the United States;

(ii) Send the distribution to a financial institution or other person located within the United States with further instructions (such as *for further credit to* instructions) directing that the funds be forwarded to a financial institution or other person located outside of the United States; or

(iii) Send the distribution to a financial institution or other person pursuant to payment instructions (including addenda information) that reference an International Automated Clearing House Transaction (IAT), International Bank Account Number (IBAN), Society for Worldwide Interbank Financial Telecommunication (SWIFT) Business Identifier Code (BIC), or similar identifier linked to a financial institution or other person located outside of the United States.

(d)(1) *Q-3.* Is the payor of a designated distribution described in section 3405(a) or (b) required to withhold income tax from the distribution if the payee's residence address that is provided to the payor is located outside of the United States?

(2) *A-3.* Unless section 3405(e)(13)(B) (which provides an exception for certain nonresident aliens) applies, if the payee's residence address that is provided to the payor is located outside of the United States, the payor of a designated distribution described in section 3405(a) or (b) is required to withhold income tax from the distribution without regard to the delivery instructions and without regard to any request by the payee to elect no withholding. Withholding would be required, in this case, even if the payee has requested that the distribution be delivered to a financial institution or other person located within the United States.

(e)(1) *Q-4.* Is the payor of a designated distribution described in section 3405(a) or (b) required to withhold income tax from the distribution if the payee has not provided the payor with the payee's residence address?

(2) *A-4.* If a payee has not provided the payor of a designated distribution described in section 3405(a) or (b) with the payee's residence address, the payor is required to withhold income tax from the distribution. Such a payee may not elect no withholding under section 3405(a)(2) or (b)(2), and any purported election of no withholding by such a

payee is not valid. For purposes of this section, a payee who has provided the payor with an address for the payee's nominee, trustee, or agent without also providing the payee's residence address has not provided a residence address.

(f)(1) Q-5. Do the withholding rules under section 3405(a) and (b) apply to a payee who is to receive a payment or distribution that is subject to the withholding rules that apply to nonresident aliens (or that would be so subject but for a tax treaty)?

(2) A-5. In accordance with section 3405(e)(1)(B)(iii), a designated distribution does not include a distribution of a United States-source payment that is subject to withholding under the rules of sections 1441 through 1446 of the Code (or that would be so subject but for a tax treaty). Therefore, the withholding rules under section 3405(a) and (b) do not apply to such a distribution. For example, section 3405(a) or (b) withholding would not apply to a pension or other deferred compensation plan distribution to be made to a payee who is a nonresident alien (or other individual payee who is presumed to be a foreign person under the presumption rules of § 1.1441-1(b)(3)). In such a case, withholding under the rules of section 1441, rather than under the rules of section 3405(a) or (b), would apply to such a distribution.

(g)(1) Q-6. What is the applicability date of this section?

(2) A-6. This section applies with respect to payments and distributions made on or after January 1, 2026.

However, taxpayers may apply it to earlier payments and distributions.

**Douglas W. O'Donnell,**  
Deputy Commissioner.

Approved: September 21, 2024.

**Aviva R. Aron-Dine,**  
Deputy Assistant Secretary of the Treasury  
(Tax Policy).

[FR Doc. 2024-24224 Filed 10-18-24; 8:45 am]

**BILLING CODE 4830-01-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R09-OAR-2023-0568; FRL-11558-02-R9]**

**Air Plan Approval; California; South Coast Air Quality Management District**

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking final action to approve revisions to the South Coast Air Quality Management District (SCAQMD) portion of the California State Implementation Plan (SIP). These revisions concern emissions of volatile organic compounds (VOCs) and oxides of nitrogen (NO<sub>x</sub>) from refinery flares. We are approving a local rule that regulates these emission sources under the Clean Air Act (CAA or the Act).

**DATES:** This rule is effective November 20, 2024.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA-R09-OAR-2023-0568. All

documents in the docket are listed on the <https://www.regulations.gov> website. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <https://www.regulations.gov>, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information. If you need assistance in a language other than English or if you are a person with a disability who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

**FOR FURTHER INFORMATION CONTACT:** Donnique Sherman, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By phone: (415) 947-4129 or by email at [sherman.donique@epa.gov](mailto:sherman.donique@epa.gov).

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

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- II. Public Comments and EPA Responses
- III. EPA Action
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**I. Proposed Action**

On March 8, 2024 (89 FR 16712), the EPA proposed to approve the following rule into the California SIP.

Local agency	Rule No.	Rule title	Amended	Submitted
SCAQMD .....	1118	Control of Emissions from Refinery Flares .....	01/06/23	05/11/23

We proposed to approve this rule because we determined that it complies with the relevant CAA requirements. Our proposed action contains more information on the rule and our evaluation.

**II. Public Comments and EPA Responses**

The EPA's proposed action provided a 30-day public comment period. During this period, we received two comments. The comments discussed California's legalization of recreational marijuana and its impact on air quality. Upon review, the EPA determined that the comments fail to raise issues germane to the proposed revisions to SCAQMD Rule 1118, which exclusively regulates

emissions of VOCs and NO<sub>x</sub> from refinery flares. The rule revisions being approved with this action increase rule enforceability by correcting the previously identified director's discretion deficiency in our September 22, 2022 action. Therefore, we have determined that these comments do not necessitate a response, and the EPA will not provide specific responses to the comments in this notice.

**III. EPA Action**

No comments were submitted that change our assessment of the rule as described in our proposed action. Therefore, as authorized in section 110(k)(3) of the Act, the EPA is

approving this rule into the California SIP.

The January 6, 2023 version of Rule 1118 will replace the previously approved version of this rule in the SIP.

**IV. Incorporation by Reference**

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of SCAQMD Rule 1118, “Control of Emissions from Refinery Flares,” amended on January 6, 2023, which regulates emissions of VOCs and NO<sub>x</sub> from refinery flares. The EPA has made, and will continue to make, these documents available