

- Revisions to Regulation 19, Appendix A adopted on December 5, 2008 (effective January 25, 2009), June 22, 2012 (effective July 9, 2012), October 26, 2012 (effective November 18, 2012), and February 26, 2016 (effective March 14, 2016);

- Revisions to Regulation 26, Chapter 3 adopted on August 23, 2002 (effective September 26, 2002), December 5, 2008 (effective January 25, 2009), and February 26, 2016 (effective March 14, 2016);

- Revisions to Regulation 26, Chapter 4 adopted on August 23, 2002 (effective September 26, 2002), December 5, 2008 (effective January 25, 2009), June 22, 2012 (effective July 9, 2012), October 26, 2012 (effective November 18, 2012), and February 26, 2016 (effective March 14, 2016);

- Revisions to Regulation 26, Chapter 5 adopted on December 5, 2008 (effective January 25, 2009) and February 26, 2016 (effective March 14, 2016);

- Revisions to Regulation 26, Chapter 6 adopted on August 23, 2002 (effective September 26, 2002), December 5, 2008 (effective January 25, 2009), and February 26, 2016 (effective March 14, 2016); and

- Non-substantive revisions throughout the current SIP-approved portions of Regulation 19 and 26 that replace “Section” with “Reg.” within section headings (e.g., “Section 26.101” revised to “Reg. 26.101”) that were adopted on December 5, 2008 (effective January 25, 2009).

EPA is not proposing any action to be taken on the portions of the July 26, 2010 and November 6, 2012 SIP revision submittals that were listed in the letter from Arkansas dated March 28, 2019, that requested the withdrawal of those revisions from EPA’s consideration for approval into the Arkansas SIP.

IV. Incorporation by Reference

In this action, we are proposing to include in a final rule regulatory text that includes incorporation by reference. In accordance with the requirements of 1 CFR 51.5, we are proposing to incorporate by reference revisions to the Arkansas regulations as described in the Proposed Action section above. We have made, and will continue to make, these documents generally available electronically through www.regulations.gov and in hard copy at the EPA Region 6 office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA’s role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);

- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;

- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);

- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a

tribe has jurisdiction. In those areas of Indian country, the proposed rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: May 21, 2019.

David Gray,

Acting Regional Administrator, Region 6.

[FR Doc. 2019–11259 Filed 5–30–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 58

[EPA–HQ–OAR–2019–0137; FRL–9994–69–OAR]

RIN 2060–AU38

Extension of Start Date for Revised Photochemical Assessment Monitoring Stations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to revise the start date for the revised Photochemical Assessment Monitoring Stations (PAMS) monitoring site network established in 40 CFR part 58, Appendix D. This proposed revision would extend the start date from June 1, 2019, to June 1, 2021. The proposed revision would give states two additional years to acquire the necessary equipment and expertise needed to successfully make the required PAMS measurements by the start of the 2021 PAMS season.

DATES: *Comments.* Comments must be received on or before July 1, 2019.

ADDRESSES: You may send comments, identified by Docket ID No. EPA–HQ–OAR–2019–0137 by any of the following methods:

- *Federal eRulemaking Portal:* <https://www.regulations.gov/> (our preferred method). Follow the online instructions for submitting comments.

- *Email:* a-and-r-docket@epa.gov. Include Docket ID No. EPA–HQ–OAR–2019–0137 in the subject line of the message.

• *Fax:* (202) 566-9744. Attention Docket ID No. EPA-HQ-OAR-2019-0137.

• *Mail:* U.S. Environmental Protection Agency, EPA Docket Center, Docket ID No. EPA-HQ-OAR-2019-0137, Mail Code 28221T, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

• *Hand/Courier Delivery:* EPA Docket Center, EPA WJC West Building, Room 3334, 1301 Constitution Avenue NW, Washington, DC 20004. The Docket Center's hours of operations are 8:30 a.m.—4:30 p.m., Monday—Friday (except Federal Holidays).

Instructions: All submissions received must include the Docket ID No. for this rulemaking. Comments received may be posted without change to <https://www.regulations.gov/>, including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the "Public Participation" heading of the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: For questions about this proposed action, contact Kevin Cavender, Air Quality Analysis Division (C304-06), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541-2364; fax number: (919) 541-1903; and email address: cavender.kevin@epa.gov.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. Public Participation
 - A. Written Comments
- II. General Information
 - A. Does this action apply to me?
 - B. Where can I get a copy of this document and other related information?
- III. Background
- IV. What actions are we proposing?
- V. What are the impacts of the actions being proposed?
- VI. Statutory and Executive Order Reviews
 - A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review
 - B. Executive Order 13771: Reducing Regulation and Controlling Regulatory Costs
 - C. Paperwork Reduction Act (PRA)
 - D. Regulatory Flexibility Act (RFA)
 - E. Unfunded Mandates Reform Act (UMRA)

- F. Executive Order 13132: Federalism
- G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
- H. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks
- I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use
- J. National Technology Transfer and Advancement Act (NTTAA)
- K. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

I. Public Participation

A. Written Comments

Submit your comments, identified by Docket ID No. EPA-HQ-OAR-2019-0137, at <https://www.regulations.gov> (our preferred method), or the other methods identified in the **ADDRESSES** section. Once submitted, comments cannot be edited or removed from the docket. The 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. The 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, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

Submitting CBI: Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to the EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information

claimed as CBI must be submitted for inclusion in the public docket. Information marked as CBI will not be disclosed except in accordance with procedures set forth in Title 40 Code of Federal Regulations (CFR) part 2.

Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or email. Send or deliver information identified as CBI to only the following address: OAQPS Document Control Officer (Room C404-02), U.S. EPA, Research Triangle Park, NC 27711, Attention Docket ID No. EPA-HQ-OAR-2019-0137.

If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

Docket: All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, *e.g.*, CBI (Confidential Business Information) 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 either electronically in <http://www.regulations.gov> or in hard copy at the EPA Docket Center, EPA/DC, EPA WJC West Building, Room 3334, 1301 Constitution Ave. NW, Washington, DC. This Docket Facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the Air Docket is (202) 566-1742.

II. General Information

A. Does this action apply to me?

Table 1 of this preamble lists the entities that may be affected by this proposal. Table 1 is not intended to be exhaustive, but rather provides a guide for readers regarding the entities that this proposed action is likely to affect. The proposed amendment, if promulgated, will be applicable to the affected entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

TABLE 1—SOURCE CATEGORIES AFFECTED BY THIS PROPOSED ACTION

Source category	NAICS code ¹	Examples of affected sources
State, local, and tribal government agencies	924119	Administration of air and water resource and solid waste management programs

¹ North American Industry Classification System.

B. Where can I get a copy of this document and other related information?

In addition to being available in the docket, an electronic copy of this action is available on the internet. Following signature by the EPA Administrator, the EPA will post a copy of this proposed action at <https://www3.epa.gov/ttn/amtic/pamsreeng.html>. Following publication in the **Federal Register**, the EPA will post the **Federal Register** version of the proposal and key technical documents at this same website.

III. Background

The EPA PAMS program was promulgated in the early 1990s to meet the requirements of Section 182(c)(1) of the Clean Air Act (CAA). Significant revisions to the PAMS requirements (found in 40 CFR part 58, Appendix D) were made as part of the 2015 Ozone National Ambient Air Quality Standards (NAAQS) review. *See* 80 FR 65292, 65420–30 (Oct. 26, 2015). The revised PAMS requirements call for ozone precursor measurements to be made during the 3-month PAMS season (June, July, and August) at existing NCore sites ¹ in core-based statistical areas (CBSA) with a population of one million or more (a multi-pollutant monitoring network also required in 40 CFR part 58). These sites are referred to as “required PAMS sites.” The main objective of the required PAMS sites is to develop a database of ozone precursors and meteorological measurements to support ozone model development and track the trends of important ozone precursor concentrations. In addition to the required PAMS sites, the revised PAMS requirements also call for each state with nonattainment areas classified as Moderate (or above) for any ozone NAAQS and states in the Ozone Transport Region to develop and implement an Enhanced Monitoring Plan (EMP). The objective of EMPs is to better understand ozone formation in specific areas through enhanced ozone

and ozone precursor monitoring activities.

The revised PAMS requirements reduced the number of required PAMS sites (from 75 to 43) while improving spatial distribution. Of the 43 required PAMS sites, 16 were existing PAMS sites and 27 are new PAMS sites. While the new PAMS requirements leverage the existing NCore network and infrastructure providing significant long-term cost savings, many states (including those with existing PAMS sites due to the age of the existing equipment) will need to install new equipment to comply with the revised PAMS requirements (*e.g.*, automated gas chromatographs (auto-GCs) to measure hourly volatile organic compounds (VOCs), true NO₂ analyzers, ceilometers (to measure mixing height), rain gauges, solar radiation sensors, and support equipment).

In revising the PAMS requirements, the EPA “recognize[d] that the changes to the PAMS requirements will require resources and a reasonable timeline in order to be successfully implemented.” 80 FR at 65428. “The PAMS program,” the EPA explained, “is funded, in part, as part of the EPA’s section 105 grants.” ² *Id.* At the time of the 2015 PAMS revisions, “EPA believe[d] that the current national funding level of the PAMS program [was] sufficient to support these final changes” *Id.* Additionally, the EPA explained that monitoring agencies would need time “to make capital investments (primarily for the installation of autoGCs, NO₂ monitors, and ceilometers), prepare appropriate [Quality Assurance] documents, and develop the expertise needed to successfully collect PAMS measurements via training or otherwise.” *Id.*

Currently, the revised PAMS requirements require states to start making PAMS measurements by June 1, 2019. To assist states in acquiring the necessary equipment, the EPA has been working on national contracts ³ to

² Section 105 grants are provided through the State and Tribal Air Grant (STAG) funds.

³ The EPA assists states by negotiating and awarding national contracts for ambient air sampling and analysis services and large-scale monitoring equipment and supplies for efficiency and consistency in the monitoring networks.

provide much of the needed equipment for making PAMS measurements—specifically contracts for auto-GCs, ceilometers, and true NO₂ analyzers. The EPA informed the states of its intent to make the national contracts available to them for the purchase of the listed PAMS equipment during numerous meetings, conferences, and workgroup calls (See docket No. EPA–HQ–2019–0137 for examples of these communications). Due to budget constraints ⁴ and delays in EPA’s contracting process, many of the states relying on the national contracts for equipment will not have all the necessary equipment in time for the current start date. However, the EPA has obtained some of the necessary PAMS equipment, which has been delivered to participating states. At the time of this proposal, roughly two thirds of the states have received and are operating auto-GCs but only one third of the sites will have the ceilometer and true NO₂ analyzers in 2019. Sites will need all of the equipment, however, to satisfy all of the PAMS requirements. The EPA is currently working on a national contract to purchase the remaining auto-GCs, but the remaining auto-GCs will not be available by the current June 1, 2019 start date. Moreover, once the remaining auto-GCs are delivered, states will need adequate time to install the new devices and develop the expertise to successfully collect PAMS measurements. The EPA is also working on national contracts to purchase the true NO₂ analyzers and ceilometers.

National contracts provide many benefits to EPA and the states, including simplified acquisition, national consistency, and sometimes better pricing options. For large-scale equipment contracts, the EPA coordinates closely with state monitoring agencies to determine interest before pursuing actual contracting vehicles. For those states planning to use the national contracts for PAMS equipment, the EPA will purchase the equipment using STAG funds on behalf of the state and have the equipment delivered directly to the state.

⁴ The EPA is using STAG funds to purchase equipment on behalf of participating states under the national contracts. Approximately \$8 million dollars is needed to purchase the equipment. To minimize disruption to existing initiatives currently being funded by STAG, the EPA is setting aside \$2 million in STAG funds per year over Fiscal Years 2017, 2018, 2019, and 2020 to fund the purchases of the new equipment on a rolling basis (*i.e.*, when a contract is established and equipment can be purchased).

¹ NCore sites are National Core multipollutant monitoring stations. *See* 40 CFR 58.1.

That contract will not be funded until 2020 and the states will not receive that equipment until the summer of 2020.

IV. What action are we proposing?

As discussed above, many of the states relying on the EPA's assistance in acquiring equipment for the required PAMS sites will not have all the necessary equipment by June 1, 2019. Because many states will also be new to making PAMS measurements, they will need time to become proficient with the equipment after the equipment has been delivered. Accordingly, the EPA believes it is appropriate to extend the start date for required PAMS monitoring for all sites until the start of the PAMS season following the delivery of the remaining PAMS equipment. Based on current expectations, the last equipment will be delivered in the summer of 2020. As such, the EPA is proposing to extend the start date for required PAMS monitoring until the beginning of the PAMS season in 2021 (i.e., June 1, 2021). The delays in the national contracts do not impact the state driven EMPs, and as such, we are not proposing any change to the current EMP date.

Alternatively, the EPA is taking comment on whether the start date should be extended only for sites that have not received the necessary equipment and is considering two alternative options. Under the first alternative, the EPA would require each remaining site to begin measurements once *all* of the necessary equipment has been delivered (and taking into account a reasonable training period), rather than having a uniform start date for all sites. Under the second alternative, the EPA would require sites to begin measurements as the necessary equipment has been delivered (and taking into account a reasonable training period). For example, under this option, the start date would be tied to the delivery of particular equipment, e.g., an auto-GC, and would account for any training associated with running the auto-GC to ensure successful data collection. Accordingly, we are also requesting information on what a reasonable time frame would be to install the new equipment and develop the expertise to successfully collect PAMS measurements.

V. What are the impacts of the actions being proposed?

As stated above, the main objective of the PAMS program is to develop a database of ozone precursors and meteorological measurements to support ozone model development and track the trends of important ozone precursor

concentrations. The EPA and other scientists use the data collected from the PAMS network to develop, evaluate, and improve ozone models. The proposed delay in PAMS implementation will reduce the amount of precursor and meteorological data available from the PAMS season in 2019 and 2020. Nevertheless, sites which have already received the necessary equipment will likely begin making PAMS measurements as soon as possible, and as such, about two thirds of the required PAMS sites may begin making speciated VOC measurements in 2019, with the remaining third beginning to make speciated VOC measurements in 2020. One-third of the sites will have the ceilometer and true NO₂ analyzers in 2019, with the remainder receiving the equipment in fiscal year 2020. In addition, many of the required PAMS measurements are already being made at these sites as part of the NCore network, including ozone, NO_y, and several meteorological measurements. Accordingly, while not a complete data set, PAMS data users will have much of the data necessary to develop, evaluate, and improve ozone models regardless of the proposed delay in start time.

VI. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at <https://www.epa.gov/laws-regulations/laws-and-executive-orders>.

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a significant regulatory action and was, therefore, not submitted to the Office of Management and Budget (OMB) for review.

B. Executive Order 13771: Reducing Regulation and Controlling Regulatory Costs

This action is expected to be an Executive Order 13771 deregulatory action. This proposed rule is expected to provide meaningful burden reduction by giving states 2 additional years to begin PAMS monitoring. A 2-year delay in the required PAMS site start date will result in cost savings for the network due to a savings in operating costs for those measurements not being made during the delay. The EPA estimates that it will cost approximately \$166,000 per year per site to make the PAMS measurements that are not already being made at NCore sites (primarily speciated VOCs, carbonyls, mixing height, and true NO₂). Assuming states who do have

the necessary equipment will make the PAMS measurements regardless of the delayed start date, it is estimated that a savings of roughly \$5 million will occur in 2019, and roughly \$2 million will occur in 2020.

C. Paperwork Reduction Act (PRA)

This action does not impose any new information collection burden under the PRA. OMB has previously approved the information collection activities contained in the existing regulations and has assigned OMB control number 2060-0084. The burden associated with conducting and reporting PAMS monitoring data been fully incorporated into the Ambient Air Quality Surveillance Information Collection Request.

D. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. In making this determination, the impact of concern is any significant adverse economic impact on small entities. An agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, has no net burden or otherwise has a positive economic effect on the small entities subject to the rule. This proposed action would reduce burden on the affected state and local monitoring agencies by delaying implementation and the associated costs of PAMS monitoring by 2 years. We have, therefore, concluded that this action will relieve regulatory burden for all directly regulated small entities.

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531-1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local or tribal governments or the private sector.

F. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications, as specified in Executive Order 13175. This action only applies to state and local monitoring agencies operating NCore monitoring sites in Core Based Statistical Areas of 1,000,000 people or more. No tribal governments will be subject to the PAMS monitoring requirements. Thus, Executive Order 13175 does not apply to this action.

H. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of “covered regulatory action” in section 2–202 of the Executive Order. This action is not subject to Executive Order 13045 because it does not concern an environmental health risk or safety risk.

I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

J. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve technical standards.

K. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

The EPA believes that this action is not subject to Executive Order 12898 (59 FR 7629, February 16, 1994) because it does not establish an environmental health or safety standard.

List of Subjects in 40 CFR Part 58

Ambient air monitoring, Ozone, Photochemical Assessment Monitoring Stations, Precursor monitoring.

Dated: May 23, 2019.

Andrew R. Wheeler,
Administrator.

For the reasons stated in the preamble, the Environmental Protection Agency proposes to amend part 58 of title 40, chapter I, of the Code of Federal Regulations as follows:

PART 58—AMBIENT AIR QUALITY SURVEILLANCE

■ 1. The authority citation for part 58 continues to read as follows:

Authority: 42 U.S.C. 7403, 7405, 7410, 7414, 7601, 7611, 7614, and 7619.

■ 2. Section 58.13 is amended by revising paragraph (h) to read as follows:

§ 58.13 Monitoring network completion.

* * * * *

(h) The Photochemical Assessment Monitoring sites required under 40 CFR part 58 Appendix D, section 5(a) must be physically established and operating under all of the requirements of this part, including the requirements of appendix A, C, D, and E of this part, no later than June 1, 2021.

* * * * *

[FR Doc. 2019–11406 Filed 5–30–19; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 212, 232, and 252

[Docket DARS–2019–0025]

RIN 0750–AK25

Defense Federal Acquisition Regulation Supplement: Prompt Payments of Small Business Contractors (DFARS Case 2018–D068)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Proposed rule.

SUMMARY: DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to implement a section of the National Defense Authorization Act for Fiscal Year 2019 that provides for accelerated payments to small business contractors and subcontractors.

DATES: Comments on the proposed rule should be submitted in writing to the address shown below on or before July 30, 2019, to be considered in the formation of a final rule.

ADDRESSES: Submit comments identified by DFARS Case 2018–D068, using any of the following methods:

○ *Federal eRulemaking Portal:* <http://www.regulations.gov>. Search for “DFARS Case 2018–D068.” Select “Comment Now” and follow the instructions provided to submit a comment. Please include “DFARS Case

2018–D068” on any attached documents.

○ *Email:* osd.dfars@mail.mil. Include DFARS Case 2018–D068 in the subject line of the message.

○ *Fax:* 571–372–6094.

○ *Mail:* Defense Acquisition Regulations System, Attn: Jennifer D. Johnson, OUSD(A–S)DPC/DARS, Room 3B941, 3060 Defense Pentagon, Washington, DC 20301–3060.

Comments received generally will be posted without change to <http://www.regulations.gov>, including any personal information provided. To confirm receipt of your comment(s), please check www.regulations.gov, approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

FOR FURTHER INFORMATION CONTACT: Ms. Jennifer D. Johnson, telephone 571–372–6100.

SUPPLEMENTARY INFORMATION:

I. Background

This rule proposes to revise the DFARS to implement section 852 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2019 (Pub. L. 115–232). Section 852 provides for accelerated payments to small business contractors and to small business subcontractors by accelerating payments to their prime contractors. Specifically, section 852 requires DoD, to the fullest extent permitted by law, to establish an accelerated payment date for small business contractors, with a goal of 15 days after receipt of a proper invoice, if a specific payment date is not established by contract. For contractors that subcontract with small businesses, section 852 requires DoD, to the fullest extent permitted by law, to establish an accelerated payment date, with a goal of 15 days after receipt of a proper invoice, if: (1) A specific payment date is not established by contract, and (2) the contractor agrees to make accelerated payments to the subcontractor without any further consideration from, or fees charged to, the subcontractor.

The requirements of section 852 are similar to current DoD policy and practice regarding payments to small business contractors and subcontractors. DFARS 232.903 states DoD’s policy of assisting small businesses by paying them as quickly as possible after receipt of invoices and proper documentation, and before normal payment due dates established in the contract. In practice, the Defense Financial Accounting Service (DFAS) currently provides accelerated payments to nearly all DoD contractors, as permitted by law.