

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 82

[FRL-7443-4]

Protection of Stratospheric Ozone: Listing of Substitutes for Ozone-Depleting Substances

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: This action lists three substitutes for ozone-depleting substances (ODSs) in the fire suppression and explosion protection sector as acceptable (subject either to narrowed use limits or use conditions) under the U.S. Environmental Protection Agency's (EPA) Significant New Alternatives Policy (SNAP) program. SNAP implements section 612 of the Clean Air Act, as amended in 1990, which requires EPA to evaluate substitutes for ODSs to reduce overall risk to human health and the environment.

In this Direct Final Rulemaking (FRM), EPA is issuing its decision on the acceptability of three halon substitutes in the fire suppression and explosion protection sector. EPA is issuing a companion proposal to this direct final rule elsewhere in today's **Federal Register**. If we receive any adverse comments, EPA will withdraw this direct final action and will consider and respond to any comments prior to taking any new, final action.

DATES: This rule is effective on March 28, 2003, without further notice, unless EPA receives adverse comment or receives a request for a public hearing by February 26, 2003. If we receive adverse comment or a request for a public hearing, we will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Send your comments and data specific to this final rule to Docket A-2002-08, U.S. Environmental Protection Agency, OAR Docket and Information Center, 1200 Pennsylvania Avenue NW., Mailcode 6102T, Washington, DC 20004. The docket is physically located at 1301 Constitution Avenue NW., Room B108, Washington, DC. You may inspect the docket between 8 a.m. and 5:30 p.m. on weekdays. Telephone (202) 566-1742; fax (202) 566-1741. As provided in 40 CFR part 2, a reasonable fee may be charged for photocopying. To expedite review, send a second copy of your comments directly to Bella Maranion at

the address listed below under **FOR FURTHER INFORMATION CONTACT**. Information designated as Confidential Business Information (CBI) under 40 CFR part 2, subpart 2, must be sent directly to the contact person for this notice. However, the Agency is requesting that all respondents submit a non-confidential version of their comments to the docket as well.

FOR FURTHER INFORMATION CONTACT: Bella Maranion at (202) 564-9749 or fax (202) 565-2155, U.S. Environmental Protection Agency, Global Programs Division, Mail Code 6205J, Washington, DC 20460. Overnight or courier deliveries should be sent to the office location at 501 Third Street NW., 4th floor, Washington, DC, 20001. Also contact the Stratospheric Protection Hotline at (800) 296-1996 and EPA's Ozone Depletion World Wide Web site at <http://www.epa.gov/ozone/snap/index.html>.

SUPPLEMENTARY INFORMATION: In this direct final rule, EPA adds three fire suppression agents to the list of acceptable substitutes, subject to either narrowed use limits or use conditions. The regulations implementing the SNAP program are codified at 40 CFR part 82, subpart G. The appendices to subpart G list substitutes for ODSs that have had restrictions imposed on their use. The action in this direct final rule will add these halon substitutes to the appendices to subpart G.

EPA is publishing today's revisions to the SNAP lists without prior proposal because the Agency views them as non-controversial and anticipates no adverse comment. We are adding three new agents to the list of acceptable substitutes, subject to narrowed use limits or use conditions. This action does not place any significant burden on the regulated community but lists as acceptable, subject to narrowed use limits or use conditions, new halon substitutes while continuing to protect human health and the environment.

In the "Proposed Rules" section of today's Federal Register publication, EPA is publishing a companion proposed rule that proposes the same actions as in this direct final rule. The direct final rule will be effective on March 28, 2003, without further notice unless we receive adverse comment (or a request for a public hearing) by February 26, 2003. If EPA receives adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. We will not institute a

second public comment period on this action. Any parties interested in commenting must do so at this time.

You may claim that information in your comments is confidential business information, as allowed by 40 CFR part 2. If you submit comments and include information that you claim as confidential business information, we request that you submit them directly to Bella Maranion in two versions: one clearly marked "Public" to be filed in the Public Docket, and the other marked "Confidential" to be reviewed by authorized government personnel only.

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I. Section 612 Program

A. Statutory Requirements

Section 612 of the Clean Air Act (CAA) authorizes EPA to develop a program for evaluating alternatives to ozone-depleting substances. EPA refers to this program as the Significant New Alternatives Policy (SNAP) program. The major provisions of section 612 are:

- **Rulemaking:** Section 612(c) requires EPA to promulgate rules making it unlawful to replace any class I (chlorofluorocarbon, halon, carbon tetrachloride, methyl chloroform, methyl bromide, and hydrobromofluorocarbon) or class II (hydrochlorofluorocarbon) substance with any substitute that the Administrator determines may present adverse effects to human health or the environment where the Administrator has identified an alternative that (1) reduces the overall risk to human health and the environment, and (2) is currently or potentially available.

- **Listing of Unacceptable/Acceptable Substitutes:** Section 612(c) also requires EPA to publish a list of the substitutes unacceptable for specific uses. EPA must publish a corresponding list of acceptable alternatives for specific uses.

- **Petition Process:** Section 612(d) grants the right to any person to petition EPA to add a substitute to or delete a substitute from the lists published in accordance with Section 612(c). The Agency has 90 days to grant or deny a petition. Where the Agency grants the petition, EPA must publish the revised lists within an additional six months.

- **90-day Notification:** Section 612(e) directs EPA to require any person who produces a chemical substitute for a class I substance to notify the Agency not less than 90 days before new or