

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 82

[FRL-7443-5]

RIN 2060-AG12

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to list 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.

Elsewhere in today's **Federal Register**, EPA is taking this action as a direct final rule without prior proposal because EPA views this as a noncontroversial revision and anticipates no adverse comments. A rationale for this action is set forth in the preamble to the direct final rule.

If we receive no adverse comments and no requests for public hearings in response to this action, we will take no further activity in relation to this rule. If EPA receives adverse comments or a request for public hearing, we will withdraw the direct final rule and review any comments in accordance with this proposal. If a public hearing is requested, EPA will provide notice in the **Federal Register** as to the location, date, and time. Any parties interested in commenting on this action should do so at that time.

DATES: Comments must be received in writing by February 26, 2003.

ADDRESSES: Public comments and data specific to this action should be sent to Docket A-2002-08, U.S. Environmental Protection Agency, OAR Docket and Information Center, 1200 Pennsylvania Avenue NW., Mailcode 6102T, Washington, DC 20460. The docket is physically located at 1301 Constitution Avenue NW., Room B108, Washington, DC. The docket may be inspected 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, a second copy of the comments should be sent 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 3rd 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: See additional information, pertaining to this action, provided in the Direct Final action of the same title located in today's **Federal Register**.

I. EPA Proposal

EPA would add three fire suppression agents to the list of acceptable substitutes, subject to narrowed use limits or use conditions, for halons which are ozone-depleting substances widely used in the fire protection sector. 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 are unacceptable or that have restrictions imposed on their use. Today's action would modify the appendices to subpart G to include these new substitutes.

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 this 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.

II. Administrative Requirements

A. Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether this regulatory action is significant and therefore subject to OMB review and the requirements of the Executive Order. The Order defines significant regulatory action as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of \$100 million or more, or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, OMB notified EPA on October 3, 2002, that it considers this a "non-significant regulatory action" within the meaning of the Executive Order and, therefore, did not require EPA to submit this action to OMB for review.

B. Paperwork Reduction Act

EPA has determined that this proposed rule contains no information requirements subject to the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, that are not already approved by the Office of Management and Budget (OMB). OMB has reviewed and approved two Information Collection Requests (ICRs) by EPA which are described in the March 18, 1994 rulemaking (59 FR 13044, at 13121, 13146-13147) and in the October 16, 1996 rulemaking (61 FR 54030, at 54038-54039). These ICRs included five types of respondent reporting and recordkeeping activities pursuant to SNAP regulations: submission of a SNAP petition, filing a SNAP/TSCA Addendum, notification for test