

IV. Why Is This Correction Issued as a Final Rule?

Section 553 of the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary, or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. We have determined that there is good cause for making today's action final without prior proposal and opportunity for comment because the changes to the rule are minor technical corrections and do not change the requirements of the rule. Thus, notice and public procedure are unnecessary. We find that this constitutes good cause under 5 U.S.C. 553(b)(B) (see also the final sentence of section 307(d)(1) of the Clean Air Act, 42 U.S.C. 7607(d)(1), indicating that the good cause provisions of the APA continue to apply to this type of rulemaking under the Clean Air Act).

Section 553(d)(3) allows an agency, upon a finding of good cause, to make a rule effective immediately. Because today's changes do not change the requirements of the rule, we find good cause to make these technical corrections effective immediately.

V. Do Any of the Executive Order and Statutory Reviews Apply to This Correction?

This final rule implements a technical correction to the Code of Federal Regulations, and it does not otherwise impose or amend any requirements.

1. *Executive Order 12630*. The EPA has complied with Executive Order 12630, Governmental Actions and Interference With Constitutionally Protected Property Rights (Takings) (53 FR 8859, March 15, 1988) by examining the takings implications of this technical correction in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the Executive Order.

2. *Executive Order 12866*. Under Executive Order 12866, Regulatory Planning and Review (58 FR 51735, October 4, 1993), this technical correction is not a "significant regulatory action" and is therefore not subject to review by the Office of Management and Budget (OMB). This action is not a "major rule" as defined by 5 U.S.C. 804(2).

3. *Executive Order 12898*. This technical correction does not involve special consideration of environmental justice-related issues as required by

Executive Order 12898, Federal Actions to Address Environment Justice in Minority Populations and Low-Income Populations (59 FR 7629, February 16, 1994).

4. *Executive Order 12988*. In issuing this technical correction, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct, as required by section 3 of Executive Order 12988, Civil Justice Reform (61 FR 4729, February 7, 1996).

5. *Executive Order 13045*. This technical correction is not subject to Executive Order 13045, Protection of Children from Environmental Health and Safety Risks (62 FR 19885, April 23, 1997) because it is not economically significant as defined in Executive Order 12866, and because the Agency does not have reason to believe the environmental health or safety risks addressed by this action present a disproportionate risk to children.

6. *Executive Order 13132*. This technical correction does not have substantial direct effects on the States, or on the relationship between the national government and the States, as specified in Executive Order 13132, Federalism (64 FR 43255, August 10, 1999).

7. *Executive Order 13175*. This technical correction does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13175, Consultation and Coordination with Indian Tribal Governments (65 FR 67249, November 6, 2000).

8. *Executive Order 13211*. This technical correction is not subject to Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

9. *Paperwork Reduction Act*. This technical correction does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

10. *National Technology Transfer and Advancement Act*. This technical correction action does not involve changes to technical standards. Thus the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply.

11. *Regulatory Flexibility Act*. Because EPA has made a "good cause" finding that this action is not subject to notice and comment requirements under the APA or any other statute, it is not

subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

12. *Unfunded Mandates Reform Act*. This technical correction contains no Federal mandates (under the regulatory provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), (Public Law 104-4), for State, local, or tribal governments or the private sector because the correction imposes no enforceable duty on any State, local or tribal governments or the private sector. Thus the correction is not subject to the requirements of sections 202 and 205 of the UMRA. In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of the UMRA.

13. *Congressional Review Act*. The Congressional Review Act (CRA) (5 U.S.C. 801 *et seq.*), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement (5 U.S.C. 808(2)). As stated previously, EPA has made such a good cause finding, including the reasons therefor, and established an effective date of September 8, 2003. The EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**.

The EPA's compliance with these Executive Orders and statutes of the underlying rule is discussed in the July 18, 2003, **Federal Register** document containing the Phaseout of Chlorobromomethane Production and Consumption final rule (68 FR 42884).

List of Subjects in 40 CFR Part 82

Environmental protection, Administrative practice and procedure, Air pollution control, Chemicals, Exports, Government procurement, Imports, Labeling, Reporting and recordkeeping requirements.