provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a State Plan for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a State Plan submission, to use VCS in place of a State Plan submission that otherwise satisfies the provisions of the CAA. 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. This rule proposing to approve Pennsylvania's State Plan submittal for the CAMR requirements would not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

List of Subjects in 40 CFR Part 62

Environmental protection, Air pollution control, Electric utilities, Intergovernmental relations, Mercury, Reporting and recordkeeping requirements.

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

Dated: September 4, 2007.

Donald S. Welsh,

Regional Administrator, Region III.

[FR Doc. E7–18057 Filed 9–12–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 82

[EPA–HQ–OAR–2007–0384; FRL–8467–3]

RIN 2060–AO28

Protection of Stratospheric Ozone: Extension of Global Laboratory and Analytical Use Exemption for Essential Class I Ozone-Depleting Substances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to extend the global laboratory and analytical use exemption for production and import of class I ozone-depleting substances beyond December 31, 2007, contingent upon and consistent with future anticipated actions by the Parties to the Montreal Protocol on Substances that Deplete the Ozone Layer. The exemption allows persons in the United States to produce and import controlled substances for laboratory and analytical uses that have not been already identified by EPA as nonessential. EPA also is proposing to add, for specific laboratory uses, the applicability of the laboratory and analytical use exemption to production and import of methyl bromide.

DATES: Written comments on this proposed rule must be received by the EPA Docket on or before November 13, 2007.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2007–0384, by one of the following methods:

- *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *E-mail: A-and-R-docket@epa.gov*.
- *Fax:* 202–343–2338, attn: Staci Gatica.
- *Mail:* Air Docket, Environmental Protection Agency, Mailcode 6102T, 1200 Pennsylvania Ave., NW., Washington, DC 20460.
- *Hand Delivery or Courier:* Deliver your comments to: EPA Air Docket, EPA West 1301 Constitution Avenue, NW., Room B108, Mail Code 6102T, Washington, DC 20460. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OAR –2007–0384. EPA's policy is that all comments received by the docket will be included in the public docket without change and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information through *www.regulations.gov* or e-mail that you consider to be CBI or otherwise protected. If you would like the Agency to consider comments that include CBI, EPA recommends that you submit the comments to the docket that exclude the CBI portion but that you provide a complete version of your comments, including the CBI, to the person listed under **ADDRESSES** above. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *www.regulations.gov* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm*.

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI 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 *www.regulations.gov* or in hard copy at the Air Docket, EPA/DC, EPA West, Room B102, 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.

FOR FURTHER INFORMATION CONTACT: Staci Gatica by regular mail: U.S. Environmental Protection Agency, Stratospheric Protection Division (6205J), 1200 Pennsylvania Avenue, NW., Washington, DC, 20460; by courier service or overnight express: 1301 L Street, NW., Washington, DC 20005, Workstation 1047B, by telephone: 202–343–9469; or by e-mail: *gatica.staci@epa.gov*.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. General Information

A. What should I consider when preparing my comments?

1. *Confidential Business Information.* Do not submit this information to EPA through www.regulations.gov or e-mail. 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 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 so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2.

2. *Tips for Preparing Your Comments.* When submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns, and suggest alternatives.
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- Make sure to submit your comments by the comment period deadline identified.

II. Extension of the Global Laboratory and Analytical Use Exemption

The *Montreal Protocol on Substances that Deplete the Ozone Layer* (Montreal Protocol) is the international agreement to reduce and eventually eliminate the production and consumption [1] of all stratospheric ozone-depleting substances (ODSs). The elimination of production and consumption of ODSs has been accomplished through adherence to phaseout schedules for specific ODSs. Section 604 of the Clean Air Act, as amended in 1990 and 1998, requires EPA to promulgate regulations implementing the Montreal Protocol's phaseout schedules in the United States. Those regulations are codified at 40 CFR part 82 Subpart A. As of January 1, 1996, production and import of most class I ODSs—including chlorofluorocarbons (CFCs), halons, carbon tetrachloride, and methyl chloroform [2]—were phased out in developed countries, including the United States.

However, the Montreal Protocol provides exemptions that allow for the continued import and/or production of ODSs for specific uses. Under the Montreal Protocol, for most class I ODSs, the Parties may collectively grant exemptions to the ban on production and import of ODSs for uses that they determine to be ''essential.'' For example, with respect to CFCs, Article 2A(4) provides that the phaseout will apply ''save to the extent that the Parties decide to permit the level of production or consumption that is necessary to satisfy uses agreed by them to be essential.'' Similar language appears in the control provisions for halons (Art. 2B), carbon tetrachloride (Art. 2D), methyl chloroform (Art. 2E), hydrobromofluorocarbons (Art. 2G), and chlorobromomethane (Art. 2I). As defined by Decision IV/25 of the Parties, use of a controlled substance is essential only if (1) it is necessary for the health, safety or is critical for the functioning of society (encompassing cultural and intellectual aspects), and (2) there are no available technically and economically feasible alternatives or substitutes that are acceptable from the standpoint of environment and health.

Decision X/19 (taken in 1998) allowed a general exemption for essential laboratory and analytical uses through December 31, 2005. EPA included this exemption in our regulations at 40 CFR part 82, subpart A. While the Clean Air Act does not specifically provide for this exemption, EPA determined that an exemption for essential laboratory and analytical uses was allowable under the Act as a *de minimis* exemption. EPA addressed the *de minimis* exemption in the final rule of March 13, 2001 (66 FR 14760–14770).

Decision X/19 also requested the Montreal Protocol's Technology and Economic Assessment Panel (TEAP), a group of technical experts from various Parties, to report annually to the Parties to the Montreal Protocol on procedures that could be performed without the use of controlled substances. It further stated that at future Meetings of the Parties (MOPs), the Parties would decide whether such procedures should no longer be eligible for exemptions. Based on the TEAP's recommendation, the Parties to the Montreal Protocol decided in 1999 (Decision XI/15) that the general exemption no longer applied to the following uses: Testing of oil and grease and total petroleum hydrocarbons in water; testing of tar in road-paving materials; and forensic finger-printing. EPA incorporated this exclusion at Appendix G to Subpart A of 40 CFR part 82 on February 11, 2002 (67 FR 6352).

Most recently, in its 2006 Assessment Report, the Chemicals Technical Options Committee (CTOC) (a subgroup that reports to the TEAP), explained that while it was brought to their attention that some opportunities for substitution exist, there has been only slow progress in replacing ODSs that are being used in laboratory and analytical procedures with substances that are less harmful to the ozone layer (p. 31, Air Docket EPA–HQ–OAR–2007–0384). The TEAP has not recommended any additional procedures to exclude from the exemption for existing approved ODSs. Members of the CTOC will continue to monitor possible alternatives and report back to the Parties.

However, at the Eighteenth MOP the Parties acknowledged the need for methyl bromide for laboratory and analytical procedures, and added methyl bromide to the approved ODSs under the essential laboratory and analytical use exemption. Decision XVIII/15 outlines specific uses and exclusions for methyl bromide under the exemption. Section III of this preamble provides further discussion of the inclusion of methyl bromide in the essential laboratory and analytical use exemption.

Based on (1) The CTOC's recognition that new non-ODS methods are not available for existing exempted laboratory and analytical uses and (2) the recent decision by the Parties to include methyl bromide under the exemption, EPA believes it is very likely that the Parties plan to extend the

[1] ''Consumption'' is defined as the amount of a substance produced in the United States, plus the amount imported into the United States, minus the amount exported to Parties to the Montreal Protocol (*see* Section 601(6) of the Clean Air Act).

[2] Class I ozone depleting substances are listed at 40 CFR part 82 subpart A, appendix A.

existing exemption, which is currently set to expire on December 31, 2007. EPA expects this decision to be made during the nineteenth MOP in September 2007, as the current agenda includes the discussion to extend the essential laboratory and analytical use exemption.

Anticipating extension of the essential laboratory and analytical use exemption, EPA is proposing in this rulemaking to extend the applicability of the exemption beyond December 31, 2007. Specifically, EPA is proposing to extend the exemption through December 31, 2015; however, based on comments and the anticipated Decision by the Parties to the Protocol, EPA would amend the date in the final rule to be consistent with the Parties' Decision if a date other than December 31, 2015 is chosen. Until a Decision is adopted by the Parties the Agency does not know exactly what date will be decided upon by the Parties. EPA considered proposing an extension date of 2009, since the previous extension for this exemption was two years, from December 31, 2005 through December 31, 2007. But based on recent discussions by technical experts, such as the CTOC (p. 31, Air Docket EPA–HQ–OAR–2007–0384), EPA believes that the exemption for essential laboratory and analytical uses will be necessary for some time longer than two years and that the Parties may decide upon an extension beyond two years. Therefore, EPA is proposing to extend the exemption through December 31, 2015 based on when it may be reasonable to assume that an exemption would no longer be necessary. EPA intends to finalize this rulemaking using the actual extension date decided upon by the Parties to ensure consistency, noting that the Parties will have considered the most recent technical review and analysis conducted by the CTOC and the TEAP. Furthermore, the overall finalization of the rule is contingent upon the Parties' extension of the exemption under the Montreal Protocol. EPA is interested in any comments the public may have on the proposed extension date, including our rationale for finalizing a date different from the proposed date of December 31, 2015, based on the anticipated future decision by the Parties of the Montreal Protocol.

EPA's regulations regarding this exemption at 40 CFR 82.8(b) currently state, ''A global exemption for class I controlled substances for essential laboratory and analytical uses shall be in effect through December 31, 2007 subject to the restrictions in appendix G of this subpart, and subject to the record keeping and reporting requirements at Sec. 82.13(u) through (x). There is no amount specified for this exemption.'' Because certain laboratory procedures continue to require the use of class I substances in the United States, because non-ODS replacements for the class I substances have not been identified for all uses, and because EPA anticipates the Parties will extend this exemption under the Montreal Protocol, EPA is proposing to revise 40 CFR 82.8(b) to reflect the extension of the exemption to December 31, 2015. For a more detailed discussion of the reasons for the exemption, refer to the March 13, 2001, **Federal Register** notice. As discussed in the March 2001 notice, the controls in place for laboratory and analytical uses provide adequate assurance that very little, if any, environmental damage will result from the handling and disposal of the small amounts of class I ODS used in such applications. In addition, the 2006 CTOC Assessment Report shows a general decrease from 2002 through 2005 in the amount of phased-out class I substances being supplied to laboratories under this exemption (p. 33, EPA–HQ–OAR–2007–0384).

III. Applicability of the Global Laboratory and Analytical Use Exemption to Methyl Bromide

As of January 1, 2005, production and import of methyl bromide has been disallowed in the United States, except for limited exemptions (40 CFR 82.4(d)). Methyl bromide is a class I controlled substance used chiefly as a fumigant for soil treatment and pest control. EPA created a system of allowances to permit continued production and import of methyl bromide for critical uses after January 1, 2005 (see 69 FR 76981, December 23, 2004). This exemption does not include provisions for continued production of methyl bromide to supply laboratories. However, the phaseout of methyl bromide production and import does not currently restrict inventories of methyl bromide produced prior to January 1, 2005, from being used for laboratory and analytical applications, as described in the Framework rule (69 FR 76982).

Methyl bromide (also known as bromomethane) does have laboratory uses, for example, as a chemical intermediate and methylating agent. EPA regulations allow for methyl bromide to be produced after the January 1, 2005, phaseout date if production is covered by ''essential use allowances or exemptions.'' (40 CFR 82.4(b)(1)) The regulations list the laboratory and analytical use exemption as a ''global exemption for class I controlled substances,'' subject to the restrictions in appendix G (40 CFR 82.4(n)(1)(iii), 82.8(b)). EPA did not originally address the issue of whether the exemption should apply to methyl bromide, but EPA did propose to include methyl bromide in the 2005 rulemaking that extended the exemption through December 31, 2007 (see 70 FR 25727). EPA received one comment on the proposed inclusion of methyl bromide, and it was general in nature. Nonetheless, EPA recognized that further discussion of whether the global laboratory exemption should include methyl bromide might occur at a future MOP and deferred final action on the issue.

In November of 2006, during the meeting of the Parties to the Montreal Protocol, the Parties included methyl bromide in the essential laboratory and analytical use exemption via Decision XVIII/15. Specifically, the Decision XVIII/15 allows methyl bromide be used: (1) As a reference or standard (a) to calibrate equipment which uses methyl bromide; (b) to monitor methyl bromide emission levels; (c) to determine methyl bromide residue levels in goods, plants, and commodities; (2) in laboratory toxicological studies; (3) to compare the efficacy of methyl bromide and its alternatives inside a laboratory; (4) as a laboratory agent which is destroyed in a chemical reaction in the manner of feedstock. Furthermore, Decision XVIII/15 specifically disallows classifying field trials using methyl bromide as essential laboratory and analytical uses and indicates that entities wishing to carry out such field trials could submit critical use nominations for that purpose (p. 43, EPA–HQ–OAR–2007–0384).

Furthermore, we believe that extending the essential laboratory and analytical uses exemption to include methyl bromide is fully consistent with allowing this exemption under the Clean Air Act as a *de minimis* exemption. EPA addressed the *de minimis* exemption in a final rule dated March 13, 2001 (66 FR 14760–14770). EPA believes only a very small amount of methyl bromide will produced under the laboratory and analytical use exemption. To date, very few companies have approached EPA about extending the laboratory and analytical use exemption to include methyl bromide. EPA does not believe that there is a large demand for methyl bromide for laboratory and analytical uses, and there is no indication that there has been significant use of the pre-phaseout inventories (that is, methyl bromide

produced prior to January 1, 2005) for such uses.

One interested company provided EPA with an estimate of annual methyl bromide sales for laboratory and analytical use, if allowed under the current exemption. That company anticipated only 0.14 metric tons in sales. Considering that 27 metric tons of ODSs were produced in 2005 and reported to the UNEP under the current laboratory and analytical use exemption, and considering that EPA has no reason to believe that large amounts of methyl bromide will be demanded and produced under the laboratory and analytical exemption, EPA, in accordance with Decision XVIII/15, proposes to add language regarding methyl bromide inclusion under the global laboratory exemption rule in Appendix G to Subpart A of Part 82. EPA is seeking public comment on the proposed inclusion of methyl bromide in the essential laboratory and analytical use exemption.

IV. Minor Technical Correction

EPA is proposing to revise three paragraphs in the reporting requirements at § 82.13 to correct two sets of minor typographical errors. The first set addresses incorrect paragraph references. Under § 82.13(v), distributors of laboratory supplies who purchased controlled substances under the essential global laboratory and analytical use exemption must report on a quarterly basis the quantity of each controlled substance purchased by each laboratory customer whose certification was previously provided to the distributor, and refers to the provisions of paragraph (y). The reference to paragraph (y) is erroneous and should be a reference to paragraph (w), which describes annual certifications provided by laboratory customers. The same paragraph (§ 82.13(v)) also refers to § 82.4(z), but should actually reference § 82.13(x).

Similarly, § 82.13(x) (applicable to distributors who only sell controlled substances as reference standards for calibrating laboratory analytical equipment) incorrectly refers to paragraph (y) and should refer to paragraph (w). Further, the reference to reports required under paragraph (x) should be corrected to refer to reports required under (v).

The second set of corrections addresses the inaccurate terminology that is used to refer to the essential laboratory and analytical use exemption. In § 82.13(v), (w), and (x), the exemption is referred to as the ''global laboratory essential-use exemption.'' This is not consistent with the rest of the regulation. EPA proposes to replace the reference to ''global laboratory essential-use exemption'' with ''global essential laboratory and analytical use exemption'' found in § 82.13(v), (w), and (x).

EPA seeks comment on these proposed corrections.

V. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

This action is not a ''significant regulatory action'' under the terms of Executive Order (EO) 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under the EO.

B. Paperwork Reduction Act

This action does not propose any new information collection burden. The recordkeeping and reporting requirements included in this action are already included in an existing information collection burden and this action does not propose any changes that would affect the burden. However, the Office of Management and Budget (OMB) has previously approved the information collection requirements contained in the existing regulations at 40 CFR 82.8(a) under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2060–0170, EPA ICR number 1432.25. A copy of the OMB approved Information Collection Request (ICR) may be obtained from Susan Auby, Collection Strategies Division; U.S. Environmental Protection Agency (2822T); 1200 Pennsylvania Ave., NW., Washington, DC 20460 or by calling (202) 566–1672.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9.

C. Regulatory Flexibility Act

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impact of today's proposed rule on small entities, small entity is defined as: (1) Pharmaceutical preparations manufacturing businesses (NAICS code 325412) that have less than 750 employees; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's proposed rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. In determining whether a rule has a significant economic impact on a substantial number of small entities, the impact of concern is any significant *adverse* economic impact on small entities, since the primary purpose of the regulatory flexibility analyses is to identify and address regulatory alternatives ''which minimize any significant economic impact of the rule on small entities.'' 5 U.S.C. 603 and 604. Thus, 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, or otherwise has a positive economic effect on all of the small entities subject to the rule.

This action, once finalized, will provide an otherwise unavailable benefit to those companies that obtain ozone-depleting substances under the essential laboratory and analytical use exemption. We have therefore concluded that today's proposed rule will relieve regulatory burden for all small entities. We continue to be interested in the potential impact of the proposed rule on small entities and welcome comments on issues related to such impacts.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year.

Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative, if the Administrator publishes with the final rule an explanation why that alternative was not adopted.

Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed a small government agency plan under section 203 of the UMRA. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

Today's proposed rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, or tribal governments or the private sector, since it merely provides an essential laboratory and analytical use exemption from the 1996 and 2005 phase outs of Class I ODSs (including methyl bromide). Similarly, EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments, because this rule merely extends the essential laboratory and analytical use exemption.

E. Executive Order 13132: Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that 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.''

This proposed rule 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, as specified in Executive Order 13132. Thus, Executive Order 13132 does not apply to this rule.

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

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' This proposed rule does not have tribal implications, as specified in Executive Order 13175. Today's proposed rule affects only the companies that requested essential use allowances. Thus, Executive Order 13175 does not apply to this rule.

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

Executive Order 13045: ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be ''economically significant'' under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

EPA interprets E.O. 13045 as applying only to those regulatory actions that are based on health or safety risks, such as the analysis required under section 5–501 of the Order has the potential to influence the regulation. This proposed rule is not subject to E.O. 13045 because it implements Section 604(d)(2) of the Clean Air Act which states that the Agency shall authorize essential use exemptions should the Food and Drug Administration determine that such exemptions are necessary.

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This proposed rule is not subject to Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use (66 Fed. Reg. 28355, May 22, 2001) because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The rule affects only the pharmaceutical companies that requested essential use allowances.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Public Law No. 104–113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. This proposed rule does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

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

Executive Order (EO) 12898 (59 FR 7629 (Feb. 16, 1994)) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or

environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA has determined that this proposed rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. The controls in place for laboratory and analytical uses provide adequate assurance that very little, if any, environmental damage will result from the handling and disposal of the small amounts of class I ODS used in such applications. Furthermore, the 2006 CTOC Assessment Report shows a general decrease from 2002 through 2005 in the amount of phased-out class I substances being supplied to laboratories under this exemption.

List of Subjects in 40 CFR Part 82

Environmental protection, Administrative practice and procedure, Air pollution control, Chemicals, Chlorofluorocarbons, Imports, Methyl chloroform, Ozone, Reporting and recordkeeping requirements.

Dated: September 7, 2007.

Stephen L. Johnson,

Administrator.

40 CFR part 82 is proposed to be amended as follows:

PART 82—PROTECTION OF STRATOSPHERIC OZONE

1. The authority citation for part 82 continues to read as follows:

Authority: 42 U.S.C. 7414, 7601, 7671–7671q.

Subpart A—Production and Consumption Controls

2. Section 82.8 is amended by revising paragraph (b) to read as follows:

§ 82.8 Grant of essential use allowances and critical use allowances.

* * * * *

(b) A global exemption for class I controlled substances for essential laboratory and analytical uses shall be in effect through December 31, 2015, subject to the restrictions in appendix G of this subpart, and subject to the record keeping and reporting requirements at § 82.13(u) through (x). There is no amount specified for this exemption.

* * * * *

3. Section 82.13 is amended by revising paragraphs (v), (w) introductory text, and (x) to read as follows:

§ 82.13 Recordkeeping and reporting requirements for class I controlled substances.

* * * * *

(v) Any distributor of laboratory supplies who purchased controlled substances under the global essential laboratory and analytical use exemption must submit quarterly (except distributors following procedures in paragraph (x) of this section) the quantity of each controlled substance purchased by each laboratory customer whose certification was previously provided to the distributor pursuant to paragraph (w) of this section.

(w) A laboratory customer purchasing a controlled substance under the global essential laboratory and analytical use exemption must provide the producer, importer or distributor with a one-time-per-year certification for each controlled substance that the substance will only be used for essential laboratory and analytical uses (defined at appendix G of this subpart) and not be resold or used in manufacturing. The certification must also include:

* * * * *

(x) Any distributor of laboratory supplies, who purchased class I controlled substances under the global essential laboratory and analytical use exemption, and who only sells the class I controlled substances as reference standards for calibrating laboratory analytical equipment, may write a letter to the Administrator requesting permission to submit the reports required under paragraph (v) of this section annually rather than quarterly. The Administrator will review the request and issue a notification of permission to file annual reports if, in the Administrator's judgment, the distributor meets the requirements of this paragraph. Upon receipt of a notification of extension from the Administrator, the distributor must submit annually the quantity of each controlled substance purchased by each laboratory customer whose certification was previously provided to the distributor pursuant to paragraph (w) of this section.

* * * * *

4. Appendix G to Subpart A of Part 82 is amended by adding paragraph 5 to read as follows:

Appendix G to Subpart A of Part 82—UNEP Recommendations for Conditions Applied to Exemptions and Essential Laboratory and Analytical Uses

* * * * *

5. Pursuant to Decision XVIII/15 of the Parties to the Montreal Protocol, effective November 2006, Methyl Bromide is exempted for the following approved essential laboratory and analytical purposes:

a. As a reference standard to calibrate equipment which uses methyl bromide, to monitor methyl bromide emission levels, to determine methyl bromide residue levels in goods, plants and commodities;

b. In laboratory toxicological studies;

c. To compare the efficacy of methyl bromide and its alternatives inside a laboratory; and

d. As a laboratory agent which is destroyed in a chemical reaction in the manner of feedstock.

Use of methyl bromide for field trials is not an approved use under the global laboratory and analytical use exemption. The provisions of Appendix G, paragraphs (1), (2), (3), and (4), regarding purity, mixing, container, and reporting requirements for other exempt ODSs, also apply to the use of methyl bromide under this exemption.

[FR Doc. E7–18095 Filed 9–12–07; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 07–3622; MB Docket No. 07–175; RM–11380]

Radio Broadcasting Services; Cuba, IL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed by KM Communications, Inc. (''Petitioner'') proposing: (1) To substitute Channel 252A for vacant Channel 292A at Cuba, Illinois at current reference coordinates 40–25–50 NL and 90–14–05 WL with a site restriction of 7.9 km (4.9 miles) southwest of the community and (2) as already reflected in the Media Bureau Consolidated Data Base System, change the reference coordinates of vacant Channel 253A at Augusta, Illinois to 40–08–34 NL and 91–02–51 WL with a site restriction of 12.8 km (7.9 miles) southwest of the community. Petitioner proposes the channel substitution at Cuba to accommodate its pending construction permit application (file no. BNPH–20070502AAU) to substitute Channel 291A for Channel 252A at Abingdon, Illinois which will be considered separately.

DATES: Comments must be filed on or before October 15, 2007, and reply comments on or before October 30, 2007.

ADDRESSES: Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC 20554. In addition to