ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 82

[EPA–HQ–OAR–2007–0384; FRL–8510–9]

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: Final rule.

SUMMARY: EPA is taking final action to extend the global laboratory and analytical use exemption for the production and import of class I ozone-depleting substances through December 31, 2011, consistent with the recent 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. The final rule also extends the applicability of the global laboratory and analytical use exemption to the production and import of methyl bromide for specific laboratory uses. Finally, this action eliminates the testing of organic matter in coal from the global laboratory and analytical use exemption.

DATES: This final rule is effective on December 27, 2007.

ADDRESSES: EPA has established a docket for this action identified under Docket ID No. EPA–HQ–OAR–2007–0384. All documents in the docket are listed on the *http://www.regulations.gov* site. 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, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available only through *www.regulations.gov* or in hard copy. To obtain copies of materials in hard copy, please call the EPA Docket Center at (202) 564–1744 between the hours of 8:30 a.m.–4:30 p.m. E.S.T., Monday–Friday, excluding legal holidays, to schedule an appointment. The EPA Docket Center's Public Reading Room address is EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC 20004.

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.* You may also visit the EPA's Ozone Depletion Web site at *www.epa.gov/ozone/strathome.html* for further information about EPA's Stratospheric Ozone Protection regulations, the science of ozone layer depletion, and other related topics.

SUPPLEMENTARY INFORMATION: Section 553(d) of the Administrative Procedure Act (APA), 5 U.S.C. Chapter 5, generally provides that rules may not take effect earlier than 30 days after they are published in the **Federal Register**. EPA is issuing this final rule under section 307(d) of the Clean Air Act, which states: ''The provisions of section 553 through 557 * * * of Title 5 shall not, except as expressly provided in this section, apply to actions to which this subsection applies.'' CAA section 307(d)(1). Thus, section 553(d) of the APA does not apply to this rule. EPA is nevertheless acting consistently with the policies underlying APA section 553(d) in making this rule effective on January 1, 2008. APA section 553(d) authorizes an earlier effective date ''as otherwise provided by the agency upon good cause found and published with the rule.'' Because, absent today's action, the exemption from the phaseout of Class I substances used for laboratory and analytical uses will expire as of the end of 2007, it is important to assure that today's action will take effect at the beginning of 2008.

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I. Background on the Montreal Protocol and 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 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,

[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.

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 codified this exemption 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).

At the 18th 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 II. B of this preamble provides further discussion of the inclusion of methyl bromide in the essential laboratory and analytical use exemption.

Most recently in September 2007, at the 19th MOP, the Parties in Decision XIX/18 extended the global laboratory and analytical use exemption through December 31, 2011. Decision XIX/18 also eliminates the testing of organic matter in coal from the global exemption for laboratory and analytical uses of controlled substances and requests the Technology and Economic Assessment Panel (TEAP) and its Chemical Technical Options Committee (CTOC) to provide, by the Twenty-first Meeting of the Parties, a list of laboratory analytical uses of ozone-depleting substances, indicating those for which alternatives exist and therefore no longer need exemption for use of class I ODS (p. 43, Air Docket EPA–HQ–OAR–2007–0384).

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 § 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 the Parties, via Decision XIX/18, extended this exemption through December 31, 2011, EPA is revising 40 CFR 82.8(b) to reflect the extension of the exemption to December 31, 2011. For a more detailed discussion of the reasons for the exemption, refer to the March 13, 2001, final rule (66 FR 14760). As discussed in the March 2001 rule, 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).

EPA proposed to extend the date through December 31, 2015 but clearly explained that at the time the proposed rule was issued the Parties had not yet taken a decision regarding extension of the global laboratory and analytical use exemption and that the final rule would reflect the date decided by the Parties at the 18th MOP.

II. This Action

Today, EPA takes final action to (1) extend the laboratory and analytical use exemption from December 31, 2007, to December 31, 2011, for specific laboratory uses, (2) apply the laboratory and analytical use exemption to the production and import of methyl bromide, (3) eliminate the testing of organic matter in coal from the laboratory and analytical use exemption, and (4) make technical corrections to regulatory text.

A. Extension of the Global Laboratory and Analytical Use Exemption

EPA received three comments on the proposed rule (72 FR 52332). Two comments supported the proposal. A third commenter provided general comments stating that chemicals that deplete the ozone should not be used any longer and questioned whether any use of such chemicals is essential. As discussed above, the Montreal Protocol specifically provides for exemptions for essential uses, and Decisions of the Parties—including Decision XIX/18 taken in 2007, specifically provide for an exemption for global laboratory and analytical uses. EPA notes that uses addressed under this exemption are typically for niche applications or for experimental work of importance to society. For example, some Federal and State laws, including regulations issued under the Clean Air Act and the Clean Water Act, require testing of water, soil, or air to measure compliance with environmental standards. A pure sample of an ODS may be necessary to properly calibrate the testing equipment and effectively monitor the presence of chemicals of interest in the environment. A fuller description of laboratory and analytical uses may be found in EPA's March 2001 final rule (66 FR 14760).

B. 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 phased out 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 76982, December 23, 2004). This critical use 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 December 23, 2004 final rule.

Methyl bromide (also known as bromomethane) has 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 ''unexpended critical use allowances'' (40 CFR 82.4(b)(1)). The regulations also provide for a ''global exemption for class I controlled substances for essential laboratory and analytical uses,'' subject to the restrictions in Appendix G (40 CFR 82.4(n)(1)(iii), 82.8(b)). EPA did not address the issue of whether the lab use exemption should apply to methyl bromide when promulgating the initial exemption, 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 18th 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, Decision XVIII/15 allows methyl bromide to 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; and (4) as a laboratory agent which is destroyed in a chemical reaction in the manner of feedstock. Furthermore, Decision XVIII/15 specifically notes that the Montreal Protocol's technical review bodies were not in favor of classifying field trials using methyl bromide as essential laboratory and analytical uses and indicates that Parties wishing to carry out such field trials could submit critical use nominations for that purpose (p. 43, EPA–HQ–OAR–2007–0384).

EPA sought comment on whether the global laboratory and analytical use exemption should specifically include methyl bromide. The three comments received were general in nature and did not discuss methyl bromide specifically. Because EPA did not receive any adverse comment regarding the inclusion of methyl bromide in the laboratory and analytical use exemption, the Agency is extending the exemption to the methyl bromide uses listed in the proposed rule.

C. Eliminating the Testing of Organic Matter in Coal From the Global Exemption for Laboratory and Analytical Use

Decision X/19, paragraph 2, requests the Technology and Economic Assessment Panel (TEAP), a group of technical experts from various Parties, to report annually on the development and availability of laboratory and analytical procedures that can be performed without using class I controlled substances and that Parties, in subsequent decisions, would decide whether such procedures would no longer be eligible for exemptions. Decision XIX/18 eliminates the testing of organic matter in coal from the global laboratory and analytical use exemption.

In the proposed rule, EPA indicated its overall intention to mirror in this final rule, the decisions taken at the 19th MOP in September of 2007. Therefore, this action eliminates the testing of organic matter in coal from the global laboratory and analytical use exemption. EPA highly regards technical recommendations made by the TEAP and routinely amends domestic regulations to mirror decisions taken by the Parties based on TEAP recommendations.

D. Minor Technical Corrections

EPA proposed to revise three paragraphs in the reporting requirements at 40 CFR 82.13 to correct two sets of minor typographical errors. EPA received no specific comments on these corrections, and is finalizing them today.

The first set addresses incorrect paragraph references. Under 40 CFR 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 instead be a reference to paragraph (w), which describes annual certifications provided by laboratory customers. Paragraph (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 instead 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 is replacing the reference to ''global laboratory essential-use exemption'' with the term ''global essential laboratory and analytical use exemption,'' in § 82.13(v), (w), and (x). EPA received no specific comments on these corrections.

III. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

This final 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 final 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 analysis and this action does not propose any changes that would affect the burden. 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 part 82 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 final 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 final 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 provides an otherwise unavailable benefit to those companies that obtain ozone-depleting substances under the essential laboratory and analytical use exemption. Therefore today's action will relieve regulatory burden for all small entities.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub.L. 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 final 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 phaseouts 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 final 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 final rule does not have tribal implications, as specified in Executive Order 13175 as it merely provides an essential laboratory and analytical use exemption from the 1996 and 2005 phaseouts of class I ODSs (including methyl bromide). 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 final rule is not subject to E.O. 13045 as it merely provides an essential laboratory and analytical use exemption from the 1996 and 2005 phaseouts of class I ODSs (including methyl bromide).

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

This final rule 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. The rule merely provides an essential laboratory and analytical use exemption from the 1996 and 2005 phaseouts of class I ODSs (including methyl bromide).

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 final 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 final 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 impact 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.

K. Congressional Review Act

The Congressional Review Act, 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. 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**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This rule will be effective December 27, 2007.

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: December 19, 2007.

Stephen L. Johnson,

Administrator.

■ For the reasons set out in the preamble, 40 CFR Part 82 is 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, 2011, 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.

* * * * *

(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 item paragraph 1. (d) and 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

1. * * *

d. Testing of organic matter in coal.

* * * * *

5. Pursuant to Decision XVIII/15 of the Parties to the Montreal Protocol, methyl bromide is exempted for the following approved essential laboratory and analytical purposes listed in following items (a) through (d). 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.

a. Methyl bromide is exempted as an approved essential laboratory and analytical use as a reference or standard to calibrate equipment which uses methyl bromide, to monitor methyl bromide emission levels, or to determine methyl bromide residue levels in goods, plants and commodities;

b. Methyl bromide is exempted as an approved essential laboratory and analytical when used in laboratory toxicological studies;

c. Methyl bromide is exempted as an approved essential laboratory and analytical use to compare the efficacy of methyl bromide and its alternatives inside a laboratory; and

d. Methyl bromide is exempted as an approved essential laboratory and analytical use as a laboratory agent which is destroyed in a chemical reaction in the manner of feedstock.

[FR Doc. E7–25091 Filed 12–26–07; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 001005281–0369–02]

RIN 0648–XE53

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; Trip Limit Reduction

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; trip limit reduction.

SUMMARY: NMFS reduces the trip limit in the commercial hook-and-line fishery for king mackerel in the northern Florida west coast subzone to 500 lb (227 kg) of king mackerel per day in or from the exclusive economic zone (EEZ). This trip limit reduction is necessary to protect the Gulf king mackerel resource.

DATES: This rule is effective 12:01 a.m., local time, December 27, 2007, through June 30, 2008, unless changed by further notification in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Susan Gerhart, telephone 727–824–5305, fax 727–824–5308, e-mail *susan.gerhart@noaa.gov*.

SUPPLEMENTARY INFORMATION: The fishery for coastal migratory pelagic fish (king mackerel, Spanish mackerel, cero, cobia, little tunny, and, in the Gulf of Mexico only, dolphin and bluefish) is managed under the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic (FMP). The FMP was prepared by the Gulf of Mexico and South Atlantic Fishery Management Councils and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

On April 27, 2000, NMFS implemented the final rule (65 FR 16336, March 28, 2000) that divided the Florida west coast subzone of the eastern zone into northern and southern subzones, and established their separate quotas. The quota for the northern Florida west coast subzone is 168,750 lb (76,544 kg)(50 CFR 622.42(c)(1)(i)(A)(*2*)(*ii*)).

In accordance with 50 CFR 622.44(a)(2)(ii)(B)(*2*), from the date that 75 percent of the northern Florida west coast subzone's quota has been harvested until a closure of the subzone's fishery has been effected or the fishing year ends, king mackerel in or from the EEZ may be possessed on board or landed from a permitted vessel in amounts not exceeding 500 lb (227 kg) per day.

NMFS has determined that 75 percent of the quota for Gulf group king mackerel from the northern Florida west coast subzone has been reached. Accordingly, a 500–lb (227–kg) trip limit applies to vessels in the commercial fishery for king mackerel in or from the EEZ in the northern Florida west coast subzone effective 12:01 a.m., local time, December 27, 2007. The 500–lb (227–kg) trip limit will remain in effect until the fishery closes or until the end of the current fishing year (June 30, 2008), whichever occurs first.

The Florida west coast subzone is that part of the eastern zone south and west of 25°20.4′ N. lat. (a line directly east from the Miami-Dade County, FL boundary). The Florida west coast subzone is further divided into northern and southern subzones. The northern subzone is that part of the Florida west coast subzone that is between 26°19.8′ N. lat. (a line directly west from the Lee/Collier County, FL boundary) and 87°31′06″; W. long. (a line directly south from the Alabama/Florida boundary).

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such prior notice and opportunity for public comment is unnecessary and contrary to the public interest. Such procedures would be unnecessary because the rule itself already has been subject to notice and comment, and all that remains is to notify the public of the closure, if warranted.

NMFS also finds good cause that the implementation of this action cannot be delayed for 30 days. There is a need to implement this measure in a timely fashion to prevent an overrun of the commercial quota of Gulf king mackerel in the northern Florida west coast subzone, given the capacity of the fishing fleet to harvest the quota quickly. Any delay in implementing this action would be contrary to the Magnuson-Stevens Act and the FMP. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is waived.